

Finance

CHAPTER 16A

DEPARTMENT OF FINANCE

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16A.01 DEPARTMENT OF FINANCE; COMMISSIONER; EMPLOYEES.

Subdivision 1. Commissioner. The commissioner of finance manages the department of finance. The commissioner is the state's controller and chief accounting and financial officer.

Subd. 2. Appointment; qualification. The governor appoints the commissioner under section 15.06. The commissioner must have broad experience as an executive financial manager.

Subd. 3. Deputy; confidential secretary. The commissioner may appoint a deputy and a confidential secretary. Each serves at the commissioner's pleasure in the unclassified service.

Subd. 4. **Organize, hire, delegate.** The commissioner shall:

- (1) organize the department;
- (2) hire the agents and classified civil service employees necessary to run the department;
- (3) define their duties; and
- (4) set conditions for, and control, delegation of the commissioner's powers, duties, and responsibilities to them.

History: 1973 c 492 s 1; 1977 c 305 s 8,9; 1984 c 628 art 2 s 1

16A.011 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to this chapter.

Subd. 2. **Agency.** Except when otherwise modified, "agency" includes an office, department, board, council, committee, authority, or commission of state government.

Subd. 3. **Allotment.** "Allotment" means a limit placed by the commissioner on the amount to be spent or encumbered during a period of time pursuant to an appropriation.

Subd. 4. **Appropriation.** "Appropriation" means an authorization by law to expend or encumber an amount in the treasury.

Subd. 5. **Appropriations committee.** "Appropriations committee" means the appropriations committee of the house of representatives.

Subd. 6. **Biennium.** "Biennium" means a period of two consecutive fiscal years beginning in an odd-numbered calendar year and ending in the next odd-numbered calendar year. On July 1, 1984, the current biennium is the 1983-1985 biennium.

Subd. 7. **Commissioner.** "Commissioner" means the commissioner of finance unless a different commissioner is specified.

Subd. 8. **Constitution.** "Constitution" means the state Constitution.

Subd. 9. **Department.** Except in subdivision 2, "department" means the department of finance unless a different department is specified.

Subd. 10. **Employee.** "Employee" includes elected officials, officers, and employees of the state, or agency, as the context requires.

Subd. 11. **Encumbrance.** "Encumbrance" means the commitment of a portion or all of an allotment in order to meet an obligation that is expected to be incurred to pay for goods or services received by the state or to pay a grant.

Subd. 12. **Executive agency.** "Executive agency" means an agency in the executive branch of state government.

Subd. 13. **Finance committee.** "Finance committee" means the finance committee of the Senate.

Subd. 14. **Fiscal year.** "Fiscal year" means the period beginning at midnight between June 30 and July 1 and ending 12 months later. On July 1, 1984, the current fiscal year is 1985.

Subd. 15. **Treasurer.** "Treasurer" means the state treasurer.

Subd. 16. **Treasury.** Unless otherwise modified, "treasury" means the state treasury.

History: 1984 c 597 s 31; 1984 c 628 art 2 s 1; art 6 s 1

16A.02 [Repealed, 1984 c 628 art 2 s 4]

16A.04 BUDGET AND CASH PROJECTION.

Subdivision 1. **To prepare, consult, supervise.** The commissioner shall prepare the biennial budget with four-year projections on revenues and expenditures. The governor shall supervise the preparation unless there is a governor-elect, who then shall provide the supervision.

Subd. 2. [Repealed, 1984 c 628 art 2 s 4]

Subd. 3. [Repealed, 1984 c 628 art 2 s 4]

Subd. 4. [Renumbered 16A.041]

History: 1973 c 492 s 4; 1984 c 628 art 2 s 1; art 6 s 1; 1984 c 654 art 2 s 51,52

16A.041 RULEMAKING.

The commissioner may make rules on the powers, duties, and responsibilities given to the department or the commissioner under state law.

History: 1973 c 492 s 4; 1984 c 628 art 2 s 1; art 6 s 1; 1984 c 654 art 2 s 51,52

16A.05 [Repealed, 1977 c 410 s 19]

16A.055 SOME OF THE COMMISSIONER'S DUTIES.

Subdivision 1. **List.** The commissioner shall:

(1) receive and record all money paid into the state treasury and safely keep it until lawfully paid out;

(2) manage the state's financial affairs;

(3) keep the state's general account books according to generally accepted government accounting principles;

(4) keep expenditure and revenue accounts according to generally accepted government accounting principles;

(5) develop, provide instructions for, prescribe, and manage a state uniform accounting system;

(6) provide to the state the expertise to ensure that all state funds are accounted for under generally accepted government accounting principles; and

(7) coordinate the development of, and develop standards for, internal auditing in state agencies and, in cooperation with the commissioner of administration, report to the legislature and the governor by December 31, 1990, on progress made.

Subd. 2. **Accounting system required.** An agency must use the uniform accounting system prescribed by the commissioner.

Subd. 3. **Access to records.** An agency must give the commissioner or a designee of the commissioner free access to its financial documents.

Subd. 4. **Commissioner's designee.** The commissioner may assign a designee to an agency to monitor its financial activities and to ensure compliance with statutes and administrative requirements promulgated by the commissioner. The designee may assist the agency as the commissioner considers appropriate. The agency's head shall supervise its employees and develop a budget consistent with its goals, responsibilities, and priorities.

Subd. 5. **Retirement fund reporting.** The commissioner may not require a public retirement fund to use financial or actuarial reporting practices or procedures different from those required by section 356.20 or 356.215.

History: (80-2) 1939 c 431 art 3 s 1; 1955 c 863 s 15; 1973 c 492 s 3; 1976 c 231 s 3; 1979 c 314 s 1; 1984 c 628 art 2 s 1; 1Sp1985 c 13 s 95; 1989 c 351 s 14

16A.06 OTHER COMMISSIONER DUTIES AND POWERS.

Subdivision 1. **Agency to comply.** The commissioner has the duties and powers stated in this section. An executive agency must do what the commissioner requires of it under this section.

Subd. 2. **Financial reports.** The commissioner from time to time shall require an executive agency to prepare financial reports on department forms so the administration and the legislature can compare spending plans with appropriations for programs and activities.

Subd. 3. **Evaluate and compare costs.** The commissioner shall provide a system to

measure the effect of fund expenditures so as to evaluate and compare the cost of functions or programs.

Subd. 4. Objectives. The commissioner from time to time shall require each executive agency to write objectives on the department's form for its authorized activities and functions. The objectives must be specific as to amount and time so that their performance can be measured. The objectives must cover the current and the next biennium.

Subd. 5. Estimates. The commissioner from time to time shall require an executive agency to report estimates of its income and receipts. The commissioner shall use the estimates to evaluate the state's financial condition.

Subd. 6. Report on financial affairs. The commissioner shall, when directed, report on the state's financial affairs to the governor.

Subd. 7. Information for policy making. The commissioner shall obtain from an executive agency any information needed to make state financial policy.

Subd. 8. Contract delegation. The commissioner may delegate the commissioner's contract review and execution powers in section 16B.06, subdivision 2, to officials in other state agencies on determining that the delegation will improve the operation of state government.

History: 1973 c 492 s 6; 1973 c 582 s 3; 1984 c 628 art 2 s 1; 1984 c 654 art 2 s 53; 1987 c 275 s 2

16A.065 PREPAY SOFTWARE, SUBSCRIPTIONS, UNITED STATES DOCUMENTS.

Despite section 16A.41, subdivision 1, the commissioner may allow an agency to make advance deposits or payments for software or software maintenance services for state-owned or leased electronic data processing equipment, for sole source maintenance agreements where it is not cost effective to pay in arrears, for exhibit booth space rental when required by the renter to guarantee the availability of space, for registration fees where advance payment is required or advance payment discount is provided, and for newspaper, magazine, and other subscription fees customarily paid for in advance. The commissioner may also allow advance deposits by any department with the Library of Congress and federal Supervisor of Documents for items to be purchased from those federal agencies.

History: 1980 c 614 s 54; 1984 c 544 s 4; 1984 c 628 art 2 s 1; 1984 c 654 art 2 s 54; 1985 c 248 s 6; 1989 c 271 s 1

16A.07 [Repealed, 1984 c 628 art 2 s 4]

16A.08 [Repealed, 1984 c 628 art 2 s 4]

16A.09 [Repealed, 1976 c 231 s 34]

16A.095 STATE BUDGET SYSTEM.

Subdivision 1. MS 1976 [Repealed, 1977 c 455 s 95]

Subdivision 1. Rules and instructions. The commissioner shall make rules and instructions for budget preparation. They must deal with classifying expenditures and with the content and submission of budget requests and appropriation measures.

Subd. 2. Budget improvements. The commissioner may choose executive agencies to test improvements in the budget system. The commissioner shall recommend required legislation to install improvements in the budget system for all executive agencies. The budget system must, to the greatest extent practicable, emphasize alternative approaches in program development and criteria to evaluate and measure performance.

Subd. 2a. Mutual cooperation; due regard. Executive agencies must cooperate with the commissioner in making a budget. The budget must meet the commissioner's requirements while giving due regard to the executive agencies' requirements.

Subd. 3. **Program budgets.** The commissioner may require an executive agency to request programmatic appropriations. For that executive agency, the commissioner may waive the requirement to request appropriations by object of expenditure. Before acting, the commissioner must consult with the appropriations and finance committees. An executive agency may not install a programmatic budget system without written permission of the commissioner.

History: 1976 c 231 s 4; 1977 c 455 s 71; 1984 c 628 art 2 s 1

16A.10 BUDGET PREPARATION.

Subdivision 1. **By May 1 and September 1.** Each even-numbered calendar year the commissioner shall prepare the budget for all agencies, subject to the approval of the governor. The commissioner shall consult with the chairs of the senate finance committee and house of representatives appropriations committee, as well as their respective division chairs, before adopting a format for the biennial budget document. By May 1, the commissioner shall send the proposed budget forms to the appropriations and finance committees. The committees have until June 1 to give the commissioner their advisory recommendations on possible improvements. By September 1, the commissioner shall send each agency enough forms to make its budget estimates. The forms must show actual expenditures and receipts for the two most recent fiscal years, estimated expenditures and receipts for the current fiscal year, and estimates for each fiscal year of the next biennium, and an estimated appropriation balance at the end of the current fiscal year. Estimated expenditures must be classified by funds and character of expenditures and may be subclassified by programs and activities. Agency revenue estimates must show how the estimates were made and what factors were used. Receipts must be classified by funds, programs, and activities. Expenditure and revenue estimates must be based on the law in existence at the time the estimates are prepared.

Subd. 2. **By October 1 and November 15.** By October 1, an agency must file the following with the commissioner:

- (1) its budget estimates;
- (2) a concise explanation of any requests for increased appropriations, expansion of services, or new activities;
- (3) a statement of work done during the current biennium and proposed for the next biennium; and
- (4) a list of each employee's name, title, and salary.

The commissioner shall prepare and file the budget estimates for an agency failing to file them. By November 15, the commissioner shall send copies of the filed material to the appropriations and finance committees.

Subd. 3. **Duties to governor-elect.** Immediately after the election of a new governor, the commissioner shall report the budget estimates and make available to the governor-elect all department information, staff, and facilities relating to the budget.

History: (53-18m) 1939 c 431 art 3 s 14; 1977 c 455 s 72,73; 1984 c 628 art 2 s 1; 1989 c 335 art 1 s 59

16A.11 BUDGET TO LEGISLATURE.

Subdivision 1. **When.** The governor shall submit a two-part budget to the legislature by the fourth Monday in January in each odd-numbered year. It shall include recommendations as to capital expenditure, but they need not be submitted until April 15.

Subd. 2. **Part one: message.** Part one of the budget, the governor's message, shall include the governor's recommendations on the financial policy of the state for the coming biennium, describing the important features of the budget plan, embracing a general budget summary setting forth the aggregate figures of the budget so as to show the balanced relation between the total proposed expenditures and the total anticipated income, with the basis and factors on which the estimates are made, the amount to be borrowed, and other means of financing the budget for the coming biennium, compared

with the corresponding figures for at least the last two completed fiscal years and the current year. The budget plan shall be supported by explanatory schedules or statements, classifying its expenditures by agencies and funds, and the income by agencies, sources, funds, and the proposed amount of new borrowing, as well as proposed new tax or revenue sources. The budget plan shall be submitted for all special and dedicated funds, as well as the general fund, and shall include the estimated amounts of federal aids, for whatever purpose provided, together with estimated expenditures from them.

Subd. 3. Part two: detailed budget. Part two of the budget, the detailed budget estimates both of expenditures and revenues, shall also include statements of the bonded indebtedness of the state, showing the actual amount of the debt service for at least the past two completed fiscal years, and the estimated amount for the current fiscal year and for the next two fiscal years, the debt authorized and unissued, the condition of the sinking funds, and the borrowing capacity. It shall also contain any statements on the financial plan which the governor believes desirable or which may be required by the legislature. The detailed estimates shall include the budget request of each agency arranged in tabular form so it may readily be compared with the governor's budget for each agency. They shall also include, as part of each agency's organization chart, a summary of the personnel employed by the agency, showing the complement approved by the legislature for the current biennium, additional complement positions authorized through the governor or the commissioner, positions transferred into or out of the agency, additional part-time and seasonal positions and the number of employees of all kinds employed by the agency on June 30 of the last complete fiscal year. The summary of the number of employees must list employees by employment status, including but not limited to full-time unlimited, part-time unlimited, full-time or part-time seasonal, intermittent, full-time or part-time temporary, full-time or part-time emergency, and other. The summary of personnel shall also be shown for each functional division of the agency, and for each fund and type of appropriation.

Any increase in complement with the exception of federal positions, approved by the commissioner of finance as temporary positions, shall be reflected in the governor's budget recommendations to the legislature as change request items. These positions are not permanent positions until the legislature has approved the change request items.

Subd. 4. Information; hearings. The commissioner shall, on request, give the governor or the legislature information on the budget and attend legislative budget hearings.

History: (53-18n) 1939 c 431 art 2 s 15; 1969 c 399 s 1; 1973 c 35 s 5; 1974 c 355 s 43; 1977 c 455 s 74,75; 1978 c 791 s 17; 1984 c 628 art 2 s 1; 1989 c 81 s 1; 1990 c 594 art 1 s 43

16A.12 [Repealed, 1977 c 455 s 95]

16A.123 APPROVED COMPLEMENT.

Subdivision 1. Limit; no contractors. An agency's approved complement limits the number of its personnel positions at any one time. It includes a position regardless of which fund or appropriation pays for it. The approved complement does not include independent contractors.

Subd. 2. More than one. When more than one approved complement figure for an agency is in a law, the context determines if they are to be added, or if one includes the others. Approved complements for an agency enacted in separate laws during a biennium are to be added.

Subd. 3. Exclusions. The following kinds of employees need not be counted in an agency's approved complement:

- (1) part-time employees;
- (2) seasonal or intermittent employees as defined by the commissioner of employee relations;
- (3) summer student employees;

- (4) service employees;
 - (5) preservice trainees in an affirmative action program approved by the commissioner of employee relations;
 - (6) CETA employees;
 - (7) repair or construction project employees;
 - (8) employees in the department of military affairs paid entirely by federal money;
- and
- (9) employees who have an active workers' compensation claim as defined by the commissioner of labor and industry.

The commissioner must conclude there is a need and available money before an agency hires an employee of a kind listed in this subdivision.

Subd. 4. To exceed complement. An agency may exceed its approved complement because of public necessity or emergency. The agency must first get the written approval of the governor. Before approval, the governor shall seek an advisory recommendation from the legislative advisory commission. If no prompt recommendation is made, the recommendation is negative.

Subd. 5. Department of natural resources complement. (a) Beginning with the biennium ending June 30, 1991, the legislature shall establish complements for the department of natural resources based on the number of full-time equivalent positions and dollars appropriated for salary-related expenditures.

The commissioner of natural resources shall provide a biennial report indicating the distribution of the full-time equivalents for the previous biennium as a supplement to the agency's biennial budget request for succeeding bienniums. The biennial budget document submitted to the legislature by the governor beginning with the 1992-1993 biennium shall indicate, by activity, the number of full-time equivalent positions included as base level and recommended changes. The governor's salary requests for the agency shall include all full-time, part-time, and seasonal dollars requested. Any change level request submitted to the legislature for consideration by the governor as part of the governor's biennial budget containing funding for salaries shall indicate the number of additional full-time equivalent positions and salary dollars requested.

Within the full-time equivalent number and amount of salary dollars appropriated for the department, the commissioner shall have the authority to establish as many full-time, part-time, or seasonal positions as required to accomplish the assigned responsibilities for the department. The commissioner shall have the authority to reallocate salary dollars for other operating expenses, but the commissioner shall not have authority to reallocate other operating funds to increase the total amount appropriated for salary-related expenses, including salary supplement, without receiving prior approval according to the process defined in this subdivision.

In the event that the commissioner finds it necessary to exceed the full-time equivalent number or the amount of appropriated dollars and the legislature is not in session, the commissioner shall seek approval of the legislative advisory commission under subdivision 4. Legislative advisory commission approved full-time equivalent positions and dollars shall not become a part of the agency budget base unless authorized by the legislature.

(b) This subdivision does not apply to emergency firefighting crews. Subdivisions 1, 2, and 3 do not apply to the department of natural resources.

History: 1977 c 455 s 76; 1979 c 332 art 1 s 10; 1980 c 617 s 47; 1981 c 356 s 255; 1984 c 628 art 2 s 1; 1Sp1985 c 13 s 96; 1Sp1985 c 17 s 5; 1989 c 335 art 1 s 60

16A.124 PROMPT PAYMENT OF STATE AGENCY BILLS REQUIRED.

Subdivision 1. Definitions. For the purposes of this section, the following terms have the meanings here given them.

- (a) "Commissioner" means the commissioner of finance.
- (b) "State agency" has the meaning assigned to it in section 16B.01.

Subd. 2. **Commissioner supervision.** The commissioner shall exercise constant supervision over state agencies to insure the prompt payment of vendor obligations.

Subd. 3. **Payment required.** State agencies must pay each valid vendor obligation so that the vendor receives payment within the vendor's early payment discount period. If there is no early payment discount period, the state agency must pay the vendor within 30 days following the receipt of the invoice for the completed delivery of the product or service.

Subd. 4. **Invoice errors.** If an invoice is incorrect, defective, or otherwise improper, the agency must notify the vendor within ten days of discovering the error. Upon receiving a corrected invoice, the agency must pay the bill within the time limitation contained in subdivision 3.

Subd. 5. **Payment of interest on late payments required.** (a) A state agency shall pay interest to a vendor for undisputed billings when the agency has not paid the billing within 30 days following receipt of the invoice, merchandise, or service whichever is later. A negotiated contract or agreement between a vendor and a state agency which requires an audit by the state agency prior to acceptance and payment of the vendor's invoice shall not be considered past due until 30 days after the completion of the audit by the state agency. Before any interest payment is made, the vendor must invoice the state agency for such interest.

(b) The rate of interest paid by the agency on undisputed bills not paid within 30 days shall be 1-1/2 percent per month or any part thereof.

(c) All interest penalties and collection costs must be paid from the agency's current operating budget. No agency may seek to increase its appropriation for the purpose of obtaining funds to pay interest penalties or collection costs.

(d) Any vendor who prevails in a civil action to collect interest penalties from a state agency shall be awarded its costs and disbursements, including attorney's fees, incurred in bringing the actions.

(e) No interest penalties may accrue against an agency that delays payment of a bill due to a disagreement with the vendor; provided, that the dispute must be settled within 30 days after the bill became overdue. Upon the resolution of the dispute, the agency must pay the vendor accrued interest on all proper invoices for which payment was not received within the applicable time limit contained in subdivision 3.

(f) The minimum monthly interest penalty payment that a state agency shall pay a vendor for the unpaid balance for any one overdue bill equal to or in excess of \$100 is \$10. For unpaid balances of less than \$100, the state agency shall pay the actual penalty due to the vendor.

Subd. 5a. **University of Minnesota; payment of interest on late payments authorized.** The University of Minnesota may comply with the requirements of subdivision 5.

Subd. 6. **Authority to reduce agency allotment.** The commissioner shall have the authority to reduce the allotment of any state agency by the amount of any vendor obligations that are paid later than 30 days following the receipt of the invoice for completed delivery of the products or services.

Subd. 7. **Report to legislature.** The commissioner shall report to the legislature each year summarizing the state's payment record for the preceding year. The report shall include the number and dollar amount of late payments made by each agency, the amount of interest penalties and collection costs paid, and the specific steps being taken to reduce the incidence of late payments in the future.

Subd. 8. **Applicability.** Subdivisions 1 to 7 apply to all agency purchases, leases, rentals, and contracts for services, including construction and remodeling contracts, except for purchases from or contracts for service with a public utility as defined in section 216B.02 or a telephone company as defined in section 237.01 that has on file with the public utilities commission an approved practice regarding late fees.

History: 1984 c 502 art 14 s 1; 1985 c 136 s 1-4; 1985 c 248 s 68

16A.1245 PROMPT PAYMENT TO SUBCONTRACTORS.

Each state agency contract must require the prime contractor to pay any subcontractor within ten days of the prime contractor's receipt of payment from the state for undisputed services provided by the subcontractor. The contract must require the prime contractor to pay interest of 1-1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of \$100 or more is \$10. For an unpaid balance of less than \$100, the prime contractor shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from a prime contractor must be awarded its costs and disbursements, including attorney's fees, incurred in bringing the action.

History: 1990 c 541 s 1

16A.125 STATE FOREST TRUST LANDS.

Subdivision 1. [Repealed, 1976 c 231 s 34]

Subd. 2. [Repealed, 1976 c 231 s 34]

Subd. 3. [Repealed, 1976 c 231 s 34]

Subd. 4. [Repealed, 1969 c 399 s 51]

Subd. 5. **Suspense account.** The term "state forest trust fund lands" as used in this subdivision, means public land in trust under the constitution set apart as "forest lands under the authority of the commissioner" of natural resources as defined by section 89.001, subdivision 13.

The commissioner of finance and the treasurer shall credit the revenue from the forest trust fund lands to the forest suspense account. The account must specify the trust funds interested in the lands and the respective receipts of the lands.

After a fiscal year, the commissioner of finance shall certify the total costs incurred for forestry during that year under appropriations for the protection, improvement, administration, and management of state forest trust fund lands. The certificate must specify the trust funds interested in the lands. The commissioner of natural resources shall supply the commissioner of finance with the information needed for the certificate.

After a fiscal year, the commissioner and the treasurer shall distribute the receipts credited to the suspense account during that fiscal year as follows:

(a) The amount of the certified costs incurred by the state for forest management during the fiscal year shall be transferred to the general fund.

(b) The balance of the receipts shall then be returned prorated to the trust funds in proportion to their respective interests in the lands which produced the receipts.

Subd. 5a. **Appropriation.** Money accruing and credited to the state forest development account is appropriated to the division of forestry in the department of natural resources to apply state forest resource management policy and plans to forest trust fund lands. The appropriation is supervised and controlled by the commissioner of natural resources.

The appropriation shall be spent according to law and remains available until spent. The appropriation is not available for spending until any estimates required by law are approved by the commissioner of finance. An obligation to spend money may not be made unless there is an available balance not otherwise encumbered in the appropriation.

Subd. 6. **Definition; accounting and distribution.** The term "state trust fund lands," as used in this section, means any state school lands or other public lands subject to trust provisions under the state constitution.

Beginning July 1, 1955, the commissioner of finance and the state treasurer shall keep a separate account of all receipts derived from the royalties on, or the sale or lease of, any minerals from such trust fund lands to be known as the state lands and minerals suspense account, specifying the trust funds interested in such lands and the receipts therefrom, respectively.

As soon as practicable after the close of each fiscal year after July 1, 1955, the commissioner of finance, upon the information supplied by the commissioner of natural resources, which the commissioner of natural resources is herewith directed to furnish, shall determine and certify to the commissioner of finance and the state treasurer the total costs incurred by the state during such year under appropriations heretofore made for the administration and management of such trust fund lands by the division of lands and forestry, or any other agency so administering and managing, specifying the trust funds interested in such lands, respectively.

As soon as practicable after the end of each fiscal year beginning with the year ending June 30, 1956, the commissioner of finance and the state treasurer shall distribute the receipts credited to the state lands and minerals suspense account during such fiscal year as follows:

All of the costs incurred by the state for the purposes aforesaid during such fiscal year and certified as hereinbefore provided, shall be transferred to the general fund as reimbursement for appropriations heretofore made for the purposes aforesaid. The balances of said receipts shall be transferred to the state trust funds concerned in accordance with their respective interests in the minerals from which the receipts were derived.

Subd. 7. [Repealed, 1976 c 231 s 34]

Subd. 8. [Repealed, 1976 c 231 s 34]

Subd. 9. [Repealed, 1976 c 231 s 34]

Subd. 10. [Repealed, 1976 c 231 s 34]

History: (53-18s) 1939 c 431 art 2 s 20; 1953 c 741 s 60; 1955 c 714 s 1,2; 1957 c 140 s 1; 1957 c 852 s 1-4; 1959 c 344 s 1-4; 1959 c 667 s 1,2; 1961 c 571 s 1; 1965 c 901 s 57 subd 6; 1967 c 314 s 1; 1967 c 905 s 9; 1969 c 399 s 1; 1969 c 567 s 3; 1969 c 1129 art 3 s 1; 1971 c 24 s 2; 1973 c 254 s 3; 1973 c 492 s 14; 1973 c 507 s 45; 1974 c 10 s 1; 1974 c 224 s 1; 1976 c 239 s 10; 1982 c 511 s 31; 1983 c 301 s 88; 1984 c 628 art 2 s 1; art 6 s 1; 1984 c 654 art 2 s 55,56; 1989 c 335 art 4 s 7

NOTE: Subdivision 6 was also repealed by Laws 1984, chapter 628, article 2, section 4 but see Laws 1984, chapter 628, article 6, section 1.

16A.126 REVOLVING FUND BILLING.

Subdivision 1. Set rates. The commissioner shall approve the rates an agency must pay to a revolving fund for services.

Subd. 2. Immediate needs. To reduce reserves for unforeseen needs, and so reduce these rates, the commissioner may transfer money from the general fund to a revolving fund. Before doing so, the commissioner must decide there is not enough money in the revolving fund for an immediate, necessary expenditure. The amount necessary to make the transfer is appropriated from the general fund to the commissioner of finance.

Subd. 3. Repayment schedules. The commissioner shall make schedules for repayment to the general fund of the transferred money. A schedule to repay money used to buy equipment may extend over the equipment's useful life. Otherwise, a schedule may not extend beyond five years.

History: 1976 c 231 s 5; 1977 c 410 s 5; 1979 c 333 s 72; 1980 c 614 s 55; 1984 c 628 art 2 s 1; 1987 c 275 s 3

16A.127 INDIRECT COSTS.

Subdivision 1. Statewide and agency indirect costs. (a) As used in this section and in section 16A.128, "statewide indirect costs" means all operating costs incurred by the treasurer and all agencies attributable to providing services to any other agency except as prohibited by federal law. These operating costs include their proportionate share of costs incurred by the legislative and judicial branches.

(b) As used in this section, "agency indirect costs" means all general support costs within the agency that are not directly charged to agency programs.

Subd. 2. Statewide plan. The commissioner shall annually prepare a plan showing the kind and amount of each executive agency's statewide indirect costs for the current fiscal year. The commissioner shall report the plan to the governor and the legislature.

Subd. 3. Reimbursement. (a) Under the plan, the commissioner shall make and record the reimbursement to the general fund of the statewide indirect costs attributable to an executive agency's nongeneral fund receipts for the last fiscal year. Unless the commissioner determines that agency indirect cost receipts are a reimbursement for general fund expenditures, the receipts are appropriated to the agency to pay administrative expenses. However, the commissioner may, for reasons of sound financial management, waive the reimbursement under this subdivision for certain nongeneral fund receipts. The commissioner shall report all waivers in the next statewide indirect cost plan.

(b) There is annually appropriated from all direct appropriated nongeneral funds an amount sufficient to reimburse the general fund for statewide indirect costs.

Subd. 4. Federal proposals. An executive agency's application for federal money shall include necessary submissions to get both statewide and agency indirect cost money. The indirect cost submission must have the prior approval of the commissioner. An indirect cost submission is unnecessary if the executive agency convinces the commissioner that the submission is not economical.

Subd. 5. Federal share. The executive agency shall reimburse the general fund for federal money received for statewide indirect costs. Unless the commissioner determines that agency indirect cost receipts are a reimbursement for general fund expenditures, the receipts are appropriated to the agency to pay administrative expenses. If less than the entire executive agency proposal is federally approved, the commissioner may accept reimbursement of less than all of the federal receipts. If no federal funds are approved for indirect costs, the executive agency must document that fact to the commissioner.

Subd. 6. Required information. An executive agency must supply the information required by the commissioner to carry out this section.

Subd. 7. Audit fees. The legislative auditor may recommend waiver, and the legislative audit commission may waive all or part of a fee for an audit. A state audited executive agency whose funds are not administered by the treasurer must transfer to the general fund the amount of the cost of the audit attributable to the executive agency's nongeneral fund receipts.

Subd. 8. Exemption. This section does not apply to the community college system, state universities, or the state board of technical colleges. Except for federal funds, this section does not apply to the department of natural resources for agency indirect costs.

Subd. 9. Waiver. The commissioner of natural resources need not bill the federal government for the indirect costs of providing emergency fire fighting services, and need not reimburse the general fund for those indirect costs, if the commissioner determines that the emergency fire fighting is in the best interest of the state. The commissioner of natural resources need not bill another state or Canadian province for the indirect costs of providing emergency fire fighting services, and need not reimburse the general fund for those indirect costs, if the other state or Canadian province agrees not to bill the state of Minnesota for the indirect costs of emergency fire fighting services provided by the other state.

History: 1976 c 231 s 6; 1983 c 301 s 89,90; 1984 c 628 art 2 s 1; art 6 s 1; 1984 c 654 art 2 s 57; 1Sp1985 c 13 s 97-100; 1987 c 264 s 1; 1987 c 275 s 4; 1987 c 404 s 76; 1990 c 375 s 3

16A.128 FEE SETTING.

Subdivision 1. Policy. Agency fees and fee adjustments shall not exceed amounts established by statute. Where amounts are not established by statute, fees shall be established or adjusted as provided in this section.

The legislature, in setting or adjusting fees, or taking actions affecting the setting

or adjusting of fees, should attempt to ensure that (1) agency fees and fee adjustments include only those service-related costs that provide a primary benefit to the individual fee payer and (2) service-related costs that benefit the general community are borne by the agency.

Subd. 1a. Approval. Fees for accounts for which appropriations are made may not be established or adjusted without the approval of the commissioner. If the fee or fee adjustment is required by law to be fixed by rule, the commissioner's approval must be in the statement of need and reasonableness. These fees must be reviewed each fiscal year. Unless the commissioner determines that the fee must be lower, fees must be set or fee adjustments must be made so the total fees nearly equal the sum of the appropriation for the accounts plus the agency's general support costs, statewide indirect costs, and attorney general costs attributable to the fee function.

Subd. 2. No rulemaking. The kinds of fees that need not be fixed by rule unless specifically required by law are:

- (1) fees based on actual direct costs of a service;
- (2) one-time fees;
- (3) fees that produce insignificant revenues;
- (4) fees billed within or between state agencies;
- (5) fees exempt from commissioner approval; or
- (6) fees for admissions to or use of facilities operated by the iron range resources and rehabilitation board, if the fees are set according to prevailing market conditions to recover operating costs.

Subd. 2a. Procedure. Other fees not fixed by law must be fixed by rule according to chapter 14. Before an agency submits notice to the State Register of intent to adopt rules that establish or adjust fees, the agency must send a copy of the notice and the proposed rules to the chairs of the house appropriations committee and senate finance committee.

History: *Ex1971 c 3 s 52; 1973 c 492 s 14; 1978 c 793 s 46; 1981 c 357 s 26; 2Sp1981 c 1 s 1; 3Sp1981 c 2 art 1 s 11; 1983 c 301 s 91; 1984 c 628 art 2 s 1; 1Sp1985 c 13 s 101; 1Sp1985 c 14 art 10 s 2; 1986 c 436 s 2*

16A.1281 REPORT ON LOW OR HIGH FEES.

Each biennium the commissioner shall review fees collected by agencies. The commissioner shall report on the fees to the commissioner of revenue and to the appropriation and finance committees not later than the date the governor submits the biennial budget to the legislature. The report must analyze the fees that the commissioner believes will be too low or too high in the next biennium for the service provided. The analysis must take into account the cost of collecting the fee and state the revenue generated by the fees of each agency.

History: *1975 c 204 s 88; 1984 c 628 art 2 s 1; 1Sp1985 c 13 s 102; 1986 c 436 s 3*

16A.129 MORE POWERS.

Subdivision 1. List of salaries. The commissioner may require a list of the employees of an agency, and that their salaries conform with the scale of compensation established by law.

Subd. 2. Classified budget, accounts. The commissioner may classify expenditures and revenue for budget making and accounting.

History: *(53-7) 1925 c 426 art 3 s 4; 1939 c 441 s 39; 1973 c 492 s 14; 1973 c 507 s 45; 1976 c 2 s 5; 1976 c 231 s 7; 1977 c 347 s 8; 1978 c 674 s 5; 1984 c 628 art 2 s 1*

16A.13 FEDERAL TAX WITHHOLDING.

Subdivision 1. Custodian; bond. The treasurer is the custodian of all money deposited with the treasurer for federal tax withheld from the pay of any officer or employee of the state of Minnesota. The treasurer's bond to the state shall cover the liability for

the custodian's acts. The deposits are subject to laws on keeping and paying out state money.

Subd. 2. Commissioner as federal agent. The commissioner may cooperate with and act as agent for the United States of America in collecting federal tax from the pay of employees.

Subd. 2a. Procedure. The commissioner shall see that the deduction for the withheld tax is made from an employee's pay on the payroll abstract. The commissioner shall approve one warrant payable to the treasurer for the total amount deducted on the abstract. Deductions from the pay of an employee paid direct by an agency shall be made by the employee's payroll authority. A later deduction must correct an error made on an earlier deduction. The paying authority shall see that a warrant or check for the deductions is promptly sent to the treasurer. The treasurer shall deposit the amount of the warrant or check to the credit of the proper federal authority or other person authorized by federal law to receive it.

Subd. 2b. Appropriation. There is appropriated the amount necessary to discharge the state's obligation under federal law requiring the deductions from pay in this section.

Subd. 3. Reports; payments. The commissioner shall report as required by federal law on the deductions made under this section and see that the deducted money is paid out as required.

Subd. 4. Employees to provide information. An employee shall prepare and send to the commissioner the information and forms the commissioner requires under this section.

History: 1943 c 1 s 1-4; 1973 c 492 s 14; 1984 c 628 art 2 s 1; art 6 s 1; 1984 c 654 art 2 s 58,59; 1986 c 444

16A.131 DEDUCTIONS FOR UNITED STATES SECURITIES, TRANSIT CARDS.

Subdivision 1. Federal securities. An employee may direct the payroll officer of the employing agency, in writing, to deduct stated amounts from the employee's pay to buy federal securities. The commissioner shall see that the deduction from the employee's pay is made on the payroll abstract. The commissioner shall approve one warrant payable to the treasurer for the total amount deducted on the payroll abstract. Deductions from the pay of an employee paid direct by an agency shall be made by the employee's paying authority. The authority shall send a warrant or check for the amount of the deductions to the treasurer payable to the treasurer. With it must go a list of the names of employees with the amount deducted for each. The treasurer shall pay out the amount deposited, when authorized by the governor by state warrant payable to the proper federal authority or to the directing employee, as the case may require.

Subd. 2. Transit cards. An employee may direct the commissioner, in writing, to deduct a stated amount from the employee's pay to buy mass transit ridership cards. The commissioner shall deposit the amount in the special account authorized by section 16B.58, subdivision 7.

History: 1951 c 678 s 1; 1980 c 614 s 56; 1984 c 544 s 89; 1984 c 628 art 2 s 1; art 6 s 1; 1984 c 654 art 2 s 60

16A.132 [Repealed, 1984 c 628 art 2 s 4; 1984 c 654 art 2 s 155]

16A.133 CREDIT UNION, PARKING, OTHER DEDUCTIONS.

Subdivision 1. Payroll direct deposit and deductions. An agency head in the executive, judicial, and legislative branch shall, upon written request signed by an employee, directly deposit all or part of an employee's pay in any credit union or financial institution, as defined in section 47.015, designated by the employee. An agency head may, upon written request of an employee, deduct from the pay of the employee a requested amount to be paid to the Minnesota benefit association, or to any organization contem-

plated by section 179A.06, of which the employee is a member, or to a company that has contracted to insure the employee for the medical costs of cancer or intensive care. If an employee is a member of or has accounts with more than one credit union or financial institution or more than one organization under section 179A.06, or is insured by more than one company, only one credit union or financial institution and one organization and one company may be paid money by direct deposit or by payroll deduction from the employee's pay.

Subd. 2. Parking, and the like. With the written consent of an employee, an agency head shall deduct from the employee's pay the amount needed to pay for services or facilities supplied under law to the employee by the state. Food and housing, garage and parking facilities, and other facilities and services may be paid for in this way.

Subd. 3. [Repealed, 1989 c 335 art 1 s 270]

History: 1941 c 464 s 1; 1955 c 108 s 1; 1969 c 130 s 1; 1971 c 841 s 1,2; 1973 c 35 s 3; 1980 c 607 art 19 s 1; 1984 c 628 art 2 s 2; 1985 c 248 s 7; 1987 c 337 s 1; 1989 c 335 art 1 s 61; 1990 c 594 art 1 s 44

16A.134 CHARITABLE ORGANIZATIONS PAYROLL DEDUCTIONS.

An employee's contribution to a registered combined charitable organization defined in section 309.501 may be deducted from the employee's pay. On the employee's written request, the commissioner shall deduct a requested amount from the pay of the employee for each pay period. The commissioner shall issue a warrant in that amount to the specified organization.

History: 1965 c 766 s 1; 1973 c 492 s 14; 1984 c 628 art 2 s 3

16A.14 ALLOTMENT AND ENCUMBRANCE SYSTEM.

Subdivision 1. Less than fiscal year. The commissioner may set an allotment period shorter than and not extending beyond the fiscal year.

Subd. 1a. Permanent improvements. Subdivision 1 does not apply for allotments of appropriations for permanent improvements, including acquisition of real property.

Subd. 2. Application. The allotment and encumbrance system applies to all appropriations and funds except as provided in subdivisions 2a, 2b, and 2c.

Subd. 2a. Exceptions. The allotment and encumbrance system does not apply to:

- (1) appropriations for the courts or the legislature;
- (2) payment of unemployment compensation benefits.

Subd. 2b. Impractical allotments. With permanent improvement contracts and transactions for the acquisition of real estate, equipment, repair, rehabilitation, appurtenances or utility systems to be used for public purposes, the commissioner may do away with periodic allotments as impractical and make rules to ensure the proper application and encumbering of funds.

Subd. 2c. Contingent funds. Contingent appropriations for the governor and the attorney general are not subject to allotment. They are subject to the prescriptions in this chapter relating to spending and encumbering of funds.

Subd. 3. Spending plan. An appropriation to an agency may not be made available for spending in the next allotment period until the agency has submitted a spending plan to the commissioner on the commissioner's form with the amount required for each activity and each purpose for which money is to be spent. The spending plan must also be approved or modified by the commissioner and funds allotted for the plan before the money is made available.

Subd. 4. Approval. The commissioner shall approve the estimated amount for expenditure if the spending plan is within the amount and purpose of the appropriation. In doing so, the commissioner must keep in mind the probable needs of the agency for the rest of the term of the appropriation, and whether there is a need for the appropriation in the next allotment period. Otherwise the commissioner shall modify the spending plan and the allotment to conform with the appropriation and the future

needs of the agency. The commissioner shall act promptly on a spending plan. The commissioner shall notify an agency of its allotments at least five days before an allotment period. Allotments to an agency for an appropriation term may not exceed the amount appropriated for that term.

Subd. 5. Modification. After approval, the commissioner may modify a spending plan for cause. An agency may apply for and must be notified of the modification. The modification may not result in a deficit or an undue reduction of funds to meet future agency needs.

History: 1976 c 166 s 7; 1976 c 231 s 8; 1984 c 628 art 2 s 1; art 6 s 1; 1984 c 654 art 2 s 61

16A.15 ACCOUNTING SYSTEM; ALLOTMENT AND ENCUMBRANCE.

Subdivision 1. Reduction. (a) If the commissioner determines that probable receipts for the general fund will be less than anticipated, and that the amount available for the remainder of the biennium will be less than needed, the commissioner shall, with the approval of the governor, and after consulting the legislative advisory commission, reduce the amount in the budget and cash flow reserve account established in subdivision 6 as needed to balance expenditures with revenue.

(b) An additional deficit shall, with the approval of the governor, and after consulting the legislative advisory commission, be made up by reducing unexpended allotments of any prior appropriation or transfer. Notwithstanding any other law to the contrary, the commissioner is empowered to defer or suspend prior statutorily created obligations which would prevent effecting such reductions.

(c) If the commissioner determines that probable receipts for any other fund, appropriation, or item will be less than anticipated, and that the amount available for the remainder of the term of the appropriation or for any allotment period will be less than needed, the commissioner shall notify the agency concerned and then reduce the amount allotted or to be allotted so as to prevent a deficit.

(d) In reducing allotments, the commissioner may consider other sources of revenue available to recipients of state appropriations and may apply allotment reductions based on all sources of revenue available.

(e) In like manner, the commissioner shall reduce allotments to an agency by the amount of any saving that can be made over previous spending plans through a reduction in prices or other cause.

Subd. 2. Accounting system. The commissioner shall keep an accounting system in the department's office showing by fund and item:

- (1) the amounts appropriated for and the estimated revenue of the agency;
- (2) the amount allotted and available for expenditure;
- (3) the amount of expenditures or obligations authorized to be incurred;
- (4) the actual receipts and disbursements;
- (5) actual balances on hand; and
- (6) the unencumbered balances after deduction of all actual and authorized expenditures.

Subd. 3. Allotment and encumbrance. A payment may not be made without prior obligation. An obligation may not be incurred against any fund, allotment, or appropriation unless the commissioner has certified a sufficient unencumbered balance in the fund, allotment, or appropriation to meet it. An expenditure or obligation authorized or incurred in violation of this chapter is invalid and ineligible for payment until made valid. A payment made in violation of this chapter is illegal. An employee authorizing or making the payment, or taking part in it, and a person receiving any part of the payment, are jointly and severally liable to the state for the amount paid or received. If an employee knowingly incurs an obligation or authorizes or makes an expenditure in violation of this chapter or takes part in the violation, the violation is just cause for the employee's removal by the appointing authority or by the governor if an appointing

authority other than the governor fails to do so. In the latter case, the governor shall give notice of the violation and an opportunity to be heard on it to the employee and to the appointing authority. A claim presented against an appropriation without prior allotment or encumbrance may be made valid on investigation, review, and approval by the commissioner, if the services, materials, or supplies to be paid for were actually furnished in good faith without collusion and without intent to defraud. The commissioner may then draw a warrant to pay the claim just as properly allotted and encumbered claims are paid.

The commissioner may approve payment for materials and supplies in excess of the obligation amount when increases are authorized by section 16B.07, subdivision 2.

Subd. 4. Periodic allotment. In the case of appropriations made for permanent improvements, including acquisition of real property, which appropriations do not lapse until the purposes of the appropriations are accomplished or abandoned, the commissioner may dispense with periodic allotments and shall make rules to ensure the proper application and encumbrance of funds.

Subd. 5. Notice to committees. The commissioner shall notify the committees on finance and taxes and tax laws of the senate and the committees on appropriations and taxes of the house of representatives of a reduction in an allotment under subdivision 1. The notice must be in writing and delivered within 15 days of the commissioner's act. The notice must specify:

- (1) the amount of the reduction in the allotment;
- (2) the agency and programs affected;
- (3) the amount of any payment withheld; and
- (4) any additional information the commissioner determines is appropriate.

Subd. 6. Budget and cash flow reserve account. A budget and cash flow reserve account is created in the general fund in the state treasury. The commissioner of finance shall, as authorized from time to time by law, restrict part or all of the budgetary balance in the general fund for use as the budget and cash flow reserve account. The commissioner of finance shall transfer to the budget and cash flow reserve account such amounts as are available to bring the total amount, including any existing balance in the account on June 30, 1989, to \$550,000,000. The amounts restricted shall remain in the account until drawn down under subdivision 1 or increased under section 16A.1541.

Subd. 7. Delay; reduction. The commissioner may delay paying up to 15 percent of an appropriation to a special taxing district or a system of higher education in that entity's fiscal year for up to 60 days after the start of its next fiscal year. The delayed amount is subject to allotment reduction under subdivision 1.

History: 1973 c 492 s 23-26; 1976 c 231 s 10; 1978 c 793 s 47; 1981 c 1 s 2; 1Sp1981 c 5 s 1; 2Sp1981 c 1 s 3; 3Sp1981 c 1 art 1 s 1; 3Sp1981 c 2 art 2 s 3; 1983 c 342 art 18 s 1-3; 1984 c 502 art 1 s 1; 1984 c 544 s 89; 1984 c 628 art 2 s 1; 1Sp1985 c 14 art 18 s 1,2; 1Sp1986 c 1 art 5 s 1,2; 1987 c 268 art 18 s 1,2; 1988 c 719 art 13 s 1; 1Sp1989 c 1 art 15 s 1

16A.153 [Repealed, 1983 c 342 art 18 s 4]

16A.154 [Repealed, 1Sp1986 c 1 art 5 s 12]

16A.1541 ADDITIONAL REVENUES; PRIORITY.

If on the basis of a forecast of general fund revenues and expenditures the commissioner of finance determines that there will be a positive unrestricted budgetary general fund balance at the close of the biennium, the commissioner of finance must allocate money to the budget and cash flow reserve account until the total amount in the account equals five percent of total general fund appropriations for the current biennium as established by the most recent legislative session. Beginning in November 1990, forecast unrestricted budgetary general fund balances are first appropriated to restore the

budget and cash flow reserve account to \$550,000,000 and then to reduce the property tax levy recognition percent under section 121.904, subdivision 4a, to 27 percent before money is allocated to the budget and cash flow reserve account under the preceding sentence.

The amounts necessary to meet the requirements of this section are appropriated from the general fund.

History: *1Sp1985 c 14 art 18 s 4; 1Sp1986 c 1 art 5 s 3; 1987 c 268 art 18 s 3; 1988 c 690 art 2 s 1; 1988 c 719 art 13 s 2; 1989 c 329 art 1 s 1; 1Sp1989 c 1 art 15 s 2; 1990 c 604 art 10 s 4*

16A.155 REFUNDS; CHARGED WHEN PAID.

Notwithstanding sections 16A.14 and 16A.15, or any other law to the contrary, the payment of a refund shall be charged to the fund, appropriation, allotment or encumbrance for the period in which the refund is paid.

History: *1976 c 231 s 11; 1984 c 628 art 2 s 1*

16A.16 [Repealed, 1983 c 299 s 36]

16A.17 PREPARATION OF STATE PAYROLL.

Subdivision 1. **Salaries; when paid.** The commissioner, with the approval of the governor, may choose to pay salaried employees semimonthly or biweekly.

Subd. 2. [Repealed, 1976 c 231 s 34]

Subd. 3. **Equal payments.** The commissioner may adjust the salary of an employee to provide equal payments through the year and to make use of modern accounting in preparing the payroll. Adjusted salaries must be based on a year of 2088 working hours. Fractions may be dropped or added in order to permit equal payments even if the salary is then slightly changed.

Subd. 4. **Allocations.** The commissioner shall set procedures for allocating and encumbering equal salary payments when a payroll period extends beyond the end of the fiscal year.

Subd. 4a. **Application.** Subdivision 4 applies to salaries of state officers and employees payable in equal payments throughout the year notwithstanding any other provision in Minnesota Statutes. No provision of any subsequent law relating to the budget, allotment, and encumbrance system or to appropriations for the payment of salaries of state officers and employees shall be construed as inconsistent with this subdivision except as expressly provided in the subsequent act that subdivision 4 does not apply or is superseded, modified, amended, or repealed.

Subd. 5. **Payroll duties.** When the department prepares the payroll for an agency, the commissioner assumes the agency head's duties to make authorized or required deductions from, or employer contributions on, the pay of the agency's employees and to prepare and issue the necessary warrants.

Subd. 5a. **Voluntary deductions.** The commissioner may require an employee making a voluntary deduction and the recipient of the deduction to provide information on the amount of or a change in the amount of the deduction. The employee making a voluntary deduction must sign and send the deduction instructions to the intended recipient of the deduction. The intended recipient shall forward the original signed instruction and other required information to the employee's payroll preparer.

Subd. 6. **Branch payrolls.** The commissioner shall prepare the payroll for the executive branch. Upon request of the rules committee of the senate or house of representatives or the supreme court, as appropriate, the commissioner shall prepare the payrolls of the legislative and judicial branches in a similar way.

Subd. 7. **Certify hours.** The commissioner may authorize an official to certify the hours worked for payroll purposes in anticipation of the hours actually worked.

Subd. 8. [Repealed, 1975 c 273 s 3]

Subd. 8. **Exceptions.** The commissioner shall prescribe procedures to assure payment is made only for hours worked except:

- (1) for leave under a collective bargaining agreement;
- (2) for leave under a plan according to section 43A.18 or the rules of the department of employee relations; or
- (3) to resolve a formal employee grievance permitted by law or collective bargaining agreement.

Subd. 8a. **Overpayment.** The head of an agency shall release to the commissioner money held for an employee when the commissioner certifies to the head that the money is required to correct an overpayment to an employee. An employee's contribution to a retirement fund may not be released until the person otherwise entitled to the employee's retirement account has been notified of the release certification and is eligible to apply for a refund. Released funds are the equivalent of a refund. Funds may not be released if the employee or a survivor is entitled to an immediate or deferred annuity or to a survivor's benefit.

Subd. 9. **Agencies share.** If a direct appropriation for payroll preparation is made, the commissioner shall bill an agency for its share of payroll costs. The billing shall be done through the indirect cost billing system. Money collected must be deposited in the general fund.

History: 1957 c 414 s 1; 1961 c 222 s 1,2; 1969 c 281 s 1; 1971 c 803 s 1,2; Ex1971 c 32 s 19; 1973 c 435 s 1; 1973 c 492 s 14; 1976 c 231 s 12-17; 1977 c 340 s 1; 1977 c 410 s 6; 1980 c 617 s 47; 1981 c 210 s 49; 1984 c 628 art 2 s 1

16A.18 ACCOUNTING, PAYROLL FOR COURTS, LEGISLATURE.

The judicial and legislative branches are not required to use the state accounting system or a computerized payroll system.

History: 1973 c 720 s 74; 1984 c 628 art 2 s 1

16A.19 RETIREMENT, SOCIAL SECURITY DEFICIENCIES.

Subdivision 1. **Procedure.** If a direct appropriation for retirement contributions, benefits, or administrative expenses, or for social security contributions under section 355.46, is determined by the chief administrative official of the agency to which or by the officer to whom the appropriation was made to be insufficient to meet the state's obligation under the program for which it is made for the fiscal year for which it is made, the official or the officer shall certify to the finance committee, the appropriations committee, and the commissioner the amount necessary to meet the deficiency. Upon this certification, the commissioner shall transfer the necessary amounts to the appropriate accounts.

Subd. 2. **Appropriation.** The amount necessary to make the transfer under subdivision 1 is appropriated from the general fund in the state treasury to the agency to which or to the officer to whom the transfer is made.

History: 1980 c 614 s 57; 1981 c 224 s 17; 1984 c 628 art 2 s 1

16A.25 SALE OF SECURITIES BEFORE MATURITY.

The commissioner shall notify the board of investment if invested funds are needed for current purposes before maturity of the securities held. The board of investment shall then order the needed amount of securities sold or cashed.

History: 1973 c 492 s 10; 1984 c 628 art 2 s 1

16A.26 ONE DEPOSITORY ACCOUNT FOR EACH TAX.

Notwithstanding sections 297.13, 298.17, 298.282, 298.39, 298.396, 297C.02 to 297C.08 and similar laws to the contrary relating to the depositing, disposition, or apportionment of tax receipts, the commissioner may use one depository account for each tax. To do so, there must be enough information to identify and dispose of or

apportion the tax under law. The commissioner shall ask the appropriate officials for the transfers and necessary certifications. The commissioner may issue directives to carry out this section.

History: 1973 c 492 s 14; 1973 c 720 s 65; 1978 c 674 s 6; 1980 c 509 s 4; 1984 c 628 art 2 s 1; 1985 c 305 art 12 s 5; 1Sp1985 c 16 art 2 s 26; 1987 c 268 art 9 s 1; 1989 c 209 art 2 s 4

16A.27 STATE FUNDS; DEPOSIT; CONTROL BY COMMISSIONER.

Subdivision 1. Treasurer to comply. The commissioner shall, in the public interest, control the amount and manner of deposit of state funds in depositories by the treasurer. The treasurer shall comply with the controls.

Subd. 2. Daily report. By 9:00 a.m. every business day, a depository holding a total of over \$100,000 in non-interest-bearing state deposits shall report the balances as of the close of the last business day to the treasurer and the commissioner. The commissioner shall record the balances, send a copy of them to the legislative reference library, and report them monthly to the legislative audit commission.

Subd. 3. Competitive bids. The depository for a state account must be selected by competitive bid. The commissioner shall invite bids by written notice to designated depositories. The notice must specify the considerations, financial activities, and conditions the commissioner requires for the bid. The account must be awarded to the lowest bidding depository that can, in the opinion of the commissioner, meet the requirements.

Subd. 4. Exceptions. In exceptional cases, the commissioner may dispense with bidding. The commissioner shall report the circumstances and reasons to the legislative audit commission within five days after opening the account.

Subd. 5. Charges, compensating balances. The commissioner may agree to pay a depository a reasonable charge, to maintain appropriate compensating balances with the depository, or purchase noninterest bearing certificates of deposit from the depository for performing depository related services.

History: 1973 c 492 s 8; 1977 c 403 s 2; 1984 c 628 art 2 s 1; 1989 c 271 s 2

16A.275 AGENCY RECEIPTS; DEPOSIT, REPORT, CREDIT.

Subdivision 1. If \$250, daily. Except as otherwise provided by law, an agency shall deposit receipts totaling \$250 or more in the state treasury daily. The depositing agency shall send a report to the commissioner on the disposition of receipts since the last report. The commissioner shall credit the deposits received during a month to the proper funds not later than the first day of the next month.

Notwithstanding the general rule stated above, the commissioner of revenue is not required to make daily deposits if (1) the volume of tax receipts cannot be processed daily with available resources, or (2) receipts cannot be immediately identified for posting to accounts.

Subd. 2. Exception. The commissioner may authorize an agency to deposit receipts totaling \$250 or more less frequently than daily for those locations where the agency furnishes documentation to the commissioner that the cost of making daily deposits exceeds the lost interest earnings and the risk of loss or theft of the receipts.

History: 1976 c 231 s 18; 2Sp1981 c 1 s 4; 1984 c 628 art 2 s 1; 1Sp1985 c 13 s 103; 1987 c 268 art 18 s 4; 1987 c 275 s 5

16A.276 CASH OVERAGE AND SHORTAGE ACCOUNT.

The commissioner may keep accounts to record daily the difference between actual and recorded cash receipts including losses from forged and uncollectible checks. At the end of the fiscal year, the commissioner shall clear the accounts by transferring the balances to the general fund and paying the deficits from operating accounts of the agencies charged with the deficit and shall report an adjustment to the legislative audit commission.

History: 1978 c 793 s 48; 1984 c 628 art 2 s 1

16A.28 TREATMENT OF UNUSED APPROPRIATIONS.

Subdivision 1. **Lapse.** Except as specifically provided for in appropriation acts, a part of an appropriation subject to this section unexpended and unencumbered at the close of a fiscal year lapses. The commissioner shall see that the remainder is returned to the fund from which the appropriation was made.

Subd. 2. **Reinstatement; final lapse.** The commissioner may reinstate a lapsed appropriation within three months of the lapse. A reinstated appropriation lapses again no later than three months after it first lapsed. A payment under a reinstated appropriation may be made only under section 16A.15, subdivision 3.

Subd. 3. **Permanent improvements.** An appropriation for permanent improvements, including the acquisition of real property does not lapse until the purposes of the appropriation are determined by the commissioner, after consultation with the affected agencies, to be accomplished or abandoned.

Subd. 4. **Canceled September 1.** On September 1 all allotments and encumbrances for the last fiscal year shall be canceled unless an agency head certifies to the commissioner that there is an encumbrance for services rendered or goods ordered in the last fiscal year. The commissioner may: reinstate the part of the cancellation needed to meet the certified encumbrance or charge the certified encumbrance against the current year's appropriation.

Subd. 5. **Exceptions.** Except as otherwise expressly provided by law, subdivisions 1 to 4 apply to every appropriation of a stated sum for a specified purpose or purposes heretofore or hereafter made, but do not, unless expressly provided by law, apply to any fund or balance of a fund derived wholly or partly from special taxes, fees, earnings, fines, federal grants, or other sources that are by law appropriated for special purposes by standing, continuing, or revolving appropriations.

History: (53-18p) 1939 c 431 art 2 s 17; 1969 c 399 s 1; 1973 c 720 s 77; 1976 c 231 s 19; 1984 c 628 art 2 s 1; art 6 s 1; 1984 c 654 art 2 s 62

16A.281 APPROPRIATIONS TO LEGISLATURE EXEMPT.

Section 16A.28 does not apply to appropriations made to the legislature, the senate, the house of representatives or its committees or commissions. An appropriation made to a legislative commission or committee other than a standing committee, if not spent during the first year, may be spent during the second year of a biennium. An unexpended balance remaining at the end of a biennium lapses and shall be returned to the fund from which appropriated. An appropriation made to the legislature, the senate, the house of representatives, or a standing committee for all or part of a biennium may be spent in either year of the biennium or the year before or after the biennium.

History: 1978 c 793 s 49; 1984 c 628 art 2 s 1

16A.283 APPROPRIATIONS TO COURTS.

If an appropriation for the courts or for an agency in the judicial branch for either fiscal year of a biennium is insufficient, the appropriation for the other fiscal year of the biennium is available for it.

History: 1Sp1985 c 13 s 104

16A.284 APPROPRIATIONS TO CONSTITUTIONAL OFFICERS.

If an appropriation for a constitutional officer for either fiscal year of a biennium is insufficient, the appropriation for the other fiscal year of the biennium is available for it.

History: 1987 c 404 s 77

16A.30 APPLICATIONS FOR NONSTATE FUNDS.

Subdivision 1. **On original application; rules and approval.** An executive agency may not apply for nonstate money without getting the approval of the commissioner

on the original of the application. The commissioner may make rules and directives to carry out this section.

Subd. 2. Historical society. Subdivision 1 does not apply to the Minnesota historical society.

History: 1976 c 231 s 20; 1984 c 628 art 2 s 1

16A.35 REVENUE SHARING TO GENERAL FUND.

The commissioner shall transfer federal general revenue-sharing funds received and interest on them to the general fund. The funds shall then be appropriated and expended as is other money in the general fund; but they may not be appropriated to any local unit of government, including school districts, to the University of Minnesota, or for any purpose contrary to Public Law Number 92-512 or the regulations of the United States Department of the Treasury.

The sums transferred are then a part of the general fund, available for appropriation and expenditure.

History: 1973 c 492 s 14; 1973 c 720 s 66; 1984 c 628 art 2 s 1

16A.36 GRANTS FROM AND ADVANCES TO UNITED STATES.

Subdivision 1. Use of grants. Money received by the state from the federal government as federal assistance must be used only for the purpose for which the money is received. If required by the proper federal authorities, interest or income arising from the money received may be credited by the commissioner to the particular account for which the money is received and used only for the purpose of that federal assistance program, or may be repaid to the federal treasury. If not so required, the interest or income shall be credited to the general fund or to another fund authorized to receive the interest or income.

Subd. 2. Reciprocal interest policy. The commissioner may, if required by the federal government or by agreement with the proper federal authorities, establish an equitable policy providing for the state to pay interest on undisbursed federal money, and providing for the federal government to pay interest to the state on state funds advanced for a federal assistance program. The amount needed to pay the interest is appropriated from the general fund or another fund earning the interest on undisbursed federal money. The interest received from the federal government shall be deposited in the fund that lost interest on state funds advanced for a federal assistance program.

History: (53-18a) 1937 c 25 s 1; 1955 c 863 s 14; 1973 c 717 s 8; 1983 c 301 s 92; 1984 c 628 art 2 s 1; art 6 s 1; 1984 c 654 art 2 s 63; 1987 c 275 s 6

16A.40 WARRANTS.

Money must not be paid out of the state treasury except upon the warrant of the commissioner. Warrants must be drawn on printed blanks that are in numerical order. The commissioner shall enter, in numerical order in a warrant register, the number, amount, date, and payee for every warrant issued.

History: (67) RL s 35; 1917 c 480 s 1; 1955 c 863 s 3; 1984 c 628 art 2 s 1; 1Sp1985 c 13 s 105

16A.41 CLAIMS AGAINST STATE.

Subdivision 1. Certified. Except as provided in subdivision 1a, when claims against the state are made for which there is an appropriation available, an official with authority to pay a claim shall approve the claim by certifying that the service was performed, the goods or material furnished, or monthly telephone service is in effect. The claim must be sent to the commissioner accompanied by a transmittal form as prescribed by the commissioner.

Subd. 1a. Exception to certification. When a claim against the state is made by a county, municipality, or other governmental subdivision, under an agreement with the

commissioner of transportation, and that agreement provides for payment of the state's contractual obligations before commencing the work, certification that the services have been performed or that the goods or materials have been furnished is not required as a prerequisite to payment of the claim.

Subd. 2. **Declaration.** The commissioner may require a claimant to declare that the claim and its amount are just and correct and that no part of it has been paid. The following form may be used:

"I declare under the penalties of perjury that this claim is just and correct and that no part of it has been paid.

Signature of Claimant."

Subd. 3. **Declaration same as oath.** To sign the declaration in subdivision 2 is the same as to sign and swear under oath.

History: (68) 1905 c 96 s 1; 1909 c 120 s 1; 1917 c 480 s 2; 1955 c 863 s 4; 1957 c 93 s 1; 1973 c 492 s 14; 1984 c 416 s 1,2; 1984 c 628 art 2 s 1; art 6 s 1; 1988 c 613 s 2

16A.42 CLAIMS: FORM, APPROVAL, REGISTER.

Subdivision 1. **Form.** The commissioner shall prescribe the form of a claim.

Subd. 2. **Approval.** If the claim is approved, the commissioner shall complete and sign a warrant in the amount of the claim.

Subd. 3. [Repealed, 1Sp1985 c 13 s 376]

Subd. 4. **Register.** The commissioner shall enter a warrant in the warrant register as if it were a cash payment.

History: (69) 1905 c 96 s 1; 1909 c 120 s 2; 1909 c 169 s 1; 1917 c 480 s 3; 1955 c 863 s 5; 1973 c 492 s 14; 1984 c 628 art 2 s 1; 1Sp1985 c 13 s 106

16A.43 WARRANT A RECEIPT.

The endorsement by the payee of a warrant is a receipt in full for the claim paid by the warrant.

History: (70) 1905 c 96 s 2; 1909 c 120 s 3; 1917 c 480 s 4; 1955 c 863 s 6; 1984 c 628 art 2 s 1

16A.44 COMMISSIONER MAY COMPEL TESTIMONY.

The commissioner may subpoena, administer oaths to, and examine under oath, the parties and witnesses to any transaction between the state and a person, partnership, or corporation.

History: (72) 1917 c 498 s 2; 1955 c 863 s 7; 1973 c 492 s 14; 1984 c 628 art 2 s 1

16A.45 OUTSTANDING UNPAID WARRANTS, CANCELLATION.

Subdivision 1. **Cancel; credit.** Once each fiscal year the commissioner and the treasurer shall cancel upon their books all outstanding unpaid commissioner's warrants, except warrants issued for the medical assistance program, that have been issued and delivered for more than five years prior to that date and credit to the general fund the respective amounts of the canceled warrants. Once each fiscal year the commissioner and the treasurer shall cancel upon their books all outstanding unpaid commissioner's warrants issued for the medical assistance program that have been issued and delivered for more than one year and credit to the general fund and the appropriate account in the federal fund, the amount of the canceled warrants.

Subd. 2. **Presentment of canceled warrant.** When a canceled warrant is presented for payment it shall be paid and charged by the commissioner to the fund credited with the amount of the canceled warrant.

Subd. 3. **Appropriation.** The amounts needed to pay canceled warrants presented for payment are appropriated from the charged funds to the commissioner.

History: (73) 1923 c 288 s 1,2; 1955 c 863 s 8; 1969 c 399 s 1; 1973 c 492 s 14; 1984 c 628 art 2 s 1; art 6 s 1; 1984 c 654 art 2 s 64; 1Sp1985 c 13 s 107

16A.46 LOST OR DESTROYED WARRANT DUPLICATE; INDEMNITY.

The commissioner may issue a duplicate to an owner if the loss or destruction of an unpaid warrant is documented by affidavit. When the duplicate is issued, the original is void. The commissioner may require an indemnity bond from the applicant to the state for double the amount of the warrant for anyone damaged by the issuance of the duplicate. The commissioner may refuse to issue a duplicate of an unpaid state warrant. If the commissioner acts in good faith the commissioner is not liable, whether the application is granted or denied.

History: (74) *RL s 36; 1955 c 863 s 9; 1973 c 492 s 14; 1984 c 628 art 2 s 1*

16A.47 COMMISSIONER'S ACCOUNT, DOCUMENT DUTIES.

The commissioner shall make and keep in the department's office a record of all accounts and documents required by law to be returned to or filed with the commissioner. The commissioner shall file and keep all official receipts and vouchers. The commissioner shall also keep an account for each appropriation, showing the disbursements. The commissioner shall keep other accounts needed to show the daily condition of state finances.

History: (75) *RL s 37; 1955 c 863 s 10; 1973 c 492 s 14; 1984 c 628 art 2 s 1; 1Sp1985 c 13 s 108*

16A.48 REFUND OF ERRONEOUS DEPOSITS.

Subdivision 1. **Procedure.** A verified claim may be submitted to the concerned agency head for refund of money in the treasury to which the state is not entitled. The claimant must submit with the claim a complete statement of facts and reasons for the refund. The agency head shall consider and approve or disapprove the claim, attach a statement of reasons, and forward the claim to the commissioner for settlement. No claim may be approved unless the agency head first obtains from the attorney general written certification that the refund will not jeopardize any rights of setoff or recoupment held by the state and any subdivision thereof, including local governments. Upon the exercise of any setoff or recoupment, the attorney general shall certify the amount of the remainder, if any, that may be appropriated and paid.

Subd. 2. **Appropriation.** The amount needed to pay a refund under subdivision 1 is appropriated to the person entitled to it from the fund to which the money was credited.

History: 1947 *c 416 s 1,2; 1955 c 863 s 11; 1973 c 492 s 14; 1984 c 628 art 2 s 1; 1987 c 268 art 19 s 1*

16A.49 REFUNDS OF \$1 OR LESS.

A refund of \$1 or less may not be paid from the treasury unless the receipts giving rise to the refund were \$1 or less. The commissioner shall set requirements for the small refunds, which may differ from the procedure in section 16A.48.

History: *Ex1967 c 48 s 69; 1973 c 492 s 4 subd 3; 1984 c 628 art 2 s 1*

16A.50 FINANCIAL REPORT TO LEGISLATURE.

By December 31 of each year, the commissioner shall report to the legislature on the operation of all state funds during the last fiscal year. The report shall contain financial statements and disclosures which show the state's financial operations and position. The report must conform with generally accepted government accounting principles.

History: (79) *RL s 40; 1955 c 847 s 1; 1955 c 863 s 12; 1959 c 51 s 1; 1973 c 492 s 14; 1974 c 406 s 56; 1979 c 314 s 2; 1983 c 301 s 93; 1984 c 628 art 2 s 1*

16A.51 [Repealed, 1984 c 654 art 2 s 155]

16A.52 [Repealed, 1984 c 628 art 2 s 4]

16A.53 BOOKKEEPING ACCOUNTS.

Subdivision 1. **Fund creates accounts.** When a law creates a fund in the treasury into which are deposited certain revenues and out of which certain expenditures are appropriated, the commissioner may consider the creation of the fund as the creation of a bookkeeping account in the state's general books of account so as to reflect the revenues deposited in the treasury and credited to the account and the expenditures appropriated from the treasury and charged to the account.

Subd. 2. **Exception.** Subdivision 1 does not apply to a fund created by the constitution or to a fund required to be created in the treasury by federal law.

History: 1959 c 30 s 2; 1973 c 492 s 14; 1984 c 628 art 2 s 1

16A.531 FUNDS CREATED.

Subdivision 1. **Environmental fund.** There is created in the state treasury an environmental fund as a special revenue fund for deposit of receipts from environmentally related fees and activities conducted by the state.

Subd. 2. **Natural resources fund.** There is created in the state treasury a natural resources fund as a special revenue fund for deposit of certain receipts from fees and services associated with natural resource management by the state.

History: 1989 c 335 art 4 s 8

16A.54 GENERAL FUND DEFINED.

Except as provided in section 16A.671, subdivision 3, the term "general fund" appearing in any existing or hereafter enacted law relating to revenues deposited in or expenditures appropriated from the treasury means such moneys as have been deposited in the treasury for the usual, ordinary, running, and incidental expenses of the state government and does not include moneys deposited in the treasury for a special or dedicated purpose.

History: 1959 c 30 s 3; 1969 c 399 s 2; 1984 c 597 s 32; 1984 c 628 art 2 s 1; art 6 s 1

16A.55 [Repealed, 1984 c 628 art 2 s 4]**16A.56 COMMISSIONER'S RECEIPT AND CLAIM DUTIES.**

The commissioner or a designee shall examine every receipt and claim, and if proper, approve them, name the account to be charged or credited, and issue warrants to pay claims.

History: (80-3) 1939 c 431 art 3 s 2; 1955 c 863 s 16; 1973 c 492 s 14; 1984 c 628 art 2 s 1

16A.57 APPROPRIATION, ALLOTMENT, AND WARRANT NEEDED.

Unless otherwise expressly provided by law, state money may not be spent or applied without an appropriation, an allotment, and issuance of a warrant.

History: (80-4) 1939 c 431 art 3 s 3; 1955 c 863 s 17; 1973 c 492 s 14; 1984 c 628 art 2 s 1

16A.575 APPROPRIATIONS; NOT DISCLOSING SOURCE.

If money is appropriated from the state treasury and the appropriation does not disclose its source, the appropriation is from the general fund.

History: Ex1971 c 3 s 97; 1988 c 469 art 1 s 1

16A.58 COMMISSIONER CUSTODIAN OF PAYMENT DOCUMENTS.

The commissioner is the custodian of original documents on which money has been or may be paid out of or received in the state treasury.

History: (80-5) 1939 c 431 art 3 s 4; 1955 c 863 s 18; 1973 c 492 s 14; 1984 c 628 art 2 s 1; 1Sp1985 c 13 s 109; 1989 c 271 s 3

16A.59 [Repealed, 1984 c 654 art 2 s 155]

16A.60 COST TO COLLECT HIGHWAY TAXES TO GENERAL FUND.

The commissioner, when authorized from time to time by law, shall transfer money from the highway user tax distribution fund to the general fund. The transfer is to reimburse the general fund for the cost of collecting the taxes mentioned in the constitution, article XIV.

History: 1959 c 403 s 1; 1973 c 492 s 14; 1976 c 2 s 172; 1978 c 793 s 50; 1984 c 628 art 2 s 1

16A.61 CERTIFICATE MONEY TO GENERAL FUND.

The commissioner shall transfer money credited to a fund set up for paying off certificates of indebtedness to the general fund when the purpose of the certificates is accomplished.

History: Ex1961 c 88 s 57; 1969 c 399 s 3; Ex1971 c 3 s 56; 1973 c 492 s 14; 1984 c 628 art 2 s 1

16A.62 MONEY IN ABOLISHED FUND TO GENERAL FUND.

Each June 30, the commissioner shall transfer to and credit to the general fund, money in a special fund or account abolished by law.

History: Ex1967 c 48 s 97; 1969 c 399 s 4; 1984 c 628 art 2 s 1

16A.625 [Repealed, 1988 c 646 art 5 s 10]

16A.63 [Repealed, 1984 c 597 s 55]

16A.631 BOND PROCEEDS FUND.

The bond proceeds fund is established to receive the proceeds of state bonds issued under the constitution, article XI, section 5, clause (a). The commissioner shall establish in the fund accounts having titles that reflect the state purpose or program for which the bond proceeds are appropriated and authorized to be expended.

History: 1984 c 597 s 33; 1Sp1986 c 3 art 1 s 4; 1989 c 271 s 4; 1990 c 610 art 1 s 33

16A.632 CAPITAL ASSET PRESERVATION AND REPLACEMENT ACCOUNT.

Subdivision 1. Establishment. A capital asset preservation and replacement account is established in the state bond proceeds fund established by section 16A.631, separate from any other accounts maintained in that fund, to receive state bond proceeds appropriated to the commissioner of administration to be expended for the purpose and in accordance with the standards and criteria set forth in this section.

Subd. 2. Standards. Article XI, section 5, clause (a), of the constitution states general obligation bonds may be issued to finance only the acquisition or betterment of state land, buildings, and improvements of a capital nature. In interpreting this and applying it to the purposes of the program contemplated in this section, the following standards are adopted for the disbursement of money from the capital asset preservation and replacement account:

(a) No new land, buildings, or major new improvements will be acquired. These projects, including all capital expenditures required to permit their effective use for the intended purpose on completion, will be estimated and provided for individually through a direct appropriation for each project.

(b) An expenditure will be made from the account only when it is a capital expenditure on a capital asset previously owned by the state, within the meaning of accepted accounting principles as applied to public expenditures. The commissioner of administration will consult with the commissioner of finance to the extent necessary to ensure this and will furnish the commissioner of finance a list of projects to be financed from

the account in order of their priority. The commissioner shall also furnish each revision of the list. The legislature assumes that many provisions for preservation and replacement of portions of existing capital assets will constitute betterments and capital improvements within the meaning of the constitution and capital expenditures under correct accounting principles, and will be financed more efficiently and economically under the program than by direct appropriations for specific projects. However, the purpose of the program is to accumulate data showing how additional costs may be saved by appropriating money from the general fund for preservation measures, the necessity of which is predictable over short periods.

(c) The commissioner of administration will furnish instructions to agencies to apply for funding of capital expenditures for preservation and replacement from the account, will review applications, will make initial allocations among types of eligible projects enumerated below, will determine priorities, and will allocate money in priority order until the available appropriation has been committed. Under section 14.02, subdivision 4, these instructions and allocations do not constitute rules and the other provisions of chapter 14 do not apply to them.

(d) Categories of projects considered likely to be most needed and appropriate for financing are the following:

(1) unanticipated emergencies of all kinds, for which a relatively small amount should be initially reserved, replaced from money allocated to low-priority projects, if possible, as emergencies occur, and used for stabilization rather than replacement if the cost would exhaust the account and should be specially appropriated;

(2) projects to remove life safety hazards, like replacement of mechanical systems, building code violations, or structural defects, at costs not large enough to require major capital requests to the legislature;

(3) elimination or containment of hazardous substances like asbestos or PCBs; and

(4) moderate cost replacement and repair of roofs, windows, tuckpointing, and structural members necessary to preserve the exterior and interior of existing buildings.

Subd. 3. Criteria for priority. Criteria can be stated only in general terms, as it is the purpose of the program to improve the allocation of limited amounts of borrowed money by enlisting the engineering expertise of the department of administration and the closer knowledge and experience of this and all other agencies in determining relative needs as they develop. The following criteria must be considered:

(a) Urgency in ensuring the safety of use of existing buildings is the first criterion to be applied. It will require judgments, for example, about the useful life of electric and mechanical systems and roofs, in relation to the remaining useful life of each building, and about the presence of hazardous substances and structural defects in the light of present building regulations.

(b) Economy is also to be determined and may even reinforce a decision based on the first criterion, if the project would forestall a larger future capital expenditure or would reduce operating expense.

(c) Absolute cost must also be considered. It may be too high to warrant funding except by an additional appropriation, or so high as to warrant a recommendation to abandon or to replace the building. It may be so low as to permit payment out of an agency's operating budget.

History: 1990 c 610 art 1 s 34

16A.64 [Repealed, 1984 c 597 s 55]

16A.641 STATE BONDS; APPROPRIATIONS.

Subdivision 1. Authority. When authorized by a law enacted in accordance with the constitution, article XI, sections 5 and 7, the commissioner may sell and issue general obligation bonds of the state evidencing public debt incurred for any purpose stated in those sections. The full faith, credit, and taxing powers of the state are irrevocably pledged for the prompt and full payment of the bonds and interest.

Subd. 2. Report. Before a sale of general obligation bonds, the commissioner shall report the amount of bonds to be issued and a detailed list of the projects or a statement of the program to be financed to the chairs of the house appropriations and tax committees and of the senate finance and tax committees, and the minority leaders of the house and senate, for their advisory recommendation. The recommendation is positive if not received within ten days.

Subd. 3. Series of bonds. Bonds authorized by a law may be issued in more than one series, and bonds authorized by more than one law may be combined in a single series, as determined by order of the commissioner. The order must state the principal amount of the bonds to be issued under each law, and the aggregate principal amount and the maturity dates and amounts of the bonds included in the series that are to be issued for the purpose of each special fund.

Subd. 4. Sale and issuance. State bonds must be sold and issued upon sealed bids in the manner and on the terms and conditions determined by the commissioner in accordance with the laws authorizing them and subject to the approval of the attorney general, but not subject to chapter 14. For each series, in addition to provisions required by subdivision 3, the commissioner may determine:

- (1) the time, place, and notice of sale and method of comparing bids;
- (2) the price, not less than par for highway bonds;
- (3) the principal amount and date of issue;
- (4) the interest rates and payment dates;
- (5) the maturity amounts and dates, not more than 20 years from the date of issue, subject to subdivision 5;
- (6) the terms, if any, on which the bonds may or must be redeemed before maturity, including notice, times, and redemption prices; and
- (7) the form of the bonds and the method of execution, delivery, payment, registration, conversion, and exchange, in accordance with section 16A.672.

Subd. 5. Planning maturities. In issuing each series of state bonds the commissioner shall try to establish the maturities and other terms so that transfers to the state bond fund required in each year of the then current biennium under subdivision 10 may be made with the least practical effect on orderly spending plans for other appropriations from the general fund.

Subd. 6. Taxability; certification. The commissioner shall ascertain from state records and certify to the holders of each series of state bonds, subject to the approval of the attorney general, that all conditions exist and all actions have been taken that are needed to make the bonds valid and binding general obligations of the state in accordance with their terms.

The bonds may be issued with or without regard to whether the interest to be paid on them is includable in gross income for federal tax purposes. If it is intended that the interest on the bonds be exempt from federal income taxes, the commissioner shall certify for the state on the date of issue the facts, estimates, and circumstances that lead the commissioner reasonably to expect that the proceeds of the bonds and the projects financed by them will not be used in a way that would cause the interest on the bonds to be subject to federal income taxes. The commissioner may covenant with the holders of the bonds that the state will comply with the provisions of the United States Internal Revenue Code then or later enacted that apply or may apply to the bonds and that establish conditions under which the interest to be paid on the bonds will not be subject to federal income taxes. The commissioner and all other state officers shall act or refrain from acting as necessary to comply with the covenants. A sum sufficient to meet the cost of compliance is annually appropriated to the commissioner from the general fund.

Subd. 7. Credit of proceeds. (a) Proceeds of bonds issued under each law must be credited by the commissioner to a special fund, as provided in this subdivision.

(b) Accrued interest and any premium received on sale of the bonds must be credited to the state bond fund created by the constitution, article XI, section 7.

(c) Except as otherwise provided by law, proceeds of state bonds issued under the constitution, article XI, section 5, clause (a), must be credited to the bond proceeds fund established by section 16A.631.

(d) Proceeds of state highway bonds must be credited to the trunk highway fund under the constitution, article XIV, section 6.

(e) Proceeds of bonds issued for programs of grants or loans to political subdivisions must be credited to special accounts in the bond proceeds fund or to special funds established by laws stating the purposes of the grants or loans, and the standards and criteria under which an executive agency is authorized to make them.

(f) Proceeds of refunding bonds must be credited to the state bond fund as provided in section 16A.66, subdivision 1.

(g) Proceeds of other bonds must be credited as provided in the law authorizing their issuance.

Subd. 8. Appropriation of proceeds. (a) The proceeds of bonds issued under each law are appropriated for the purposes described in the law and in this subdivision. This appropriation may never be canceled.

(b) Before the proceeds are received in the proper special fund, the commissioner may transfer to that fund from the general fund amounts not exceeding the expected proceeds. The commissioner shall return these amounts to the general fund by transferring proceeds when received. The amounts of these transfers are appropriated from the general fund and from the bond proceeds.

(c) Actual and necessary travel and subsistence expenses of employees and all other expenses incidental to the sale, printing, execution, and delivery of bonds must be paid from the proceeds. The proceeds are appropriated for this purpose.

(d) Bond proceeds remaining in a special fund after the purposes for which the bonds were issued are accomplished or abandoned, as certified by the head of the agency administering the special fund, or as determined by the commissioner, unless devoted under the appropriation act to another purpose designated in the act, shall be transferred to the state bond fund.

Subd. 9. Special accounts; appropriation. (a) The commissioner shall establish separate accounts in the state bond fund for:

(1) state building bonds, and for other state bonds issued for each program of grants to political subdivisions for a particular class of capital expenditures, to record debt service payments and receipts of amounts appropriated from the general fund under subdivision 10;

(2) state highway bonds, to record debt service payments, receipts of amounts appropriated for debt service from the trunk highway fund pursuant to the constitution, article XIV, section 6, and additional receipts, if any, of amounts appropriated from the general fund under subdivision 10;

(3) state bonds issued for each capital loan and for each program of capital loans to agencies or political subdivisions, to record debt service payments, receipts of loan repayments appropriated for debt service or reimbursement of debt service by the law authorizing the loan or program, and any additional receipts of amounts appropriated from the general fund under subdivision 10; and

(4) refunding bonds, as provided in section 16A.66, subdivision 1.

(b) All money credited, transferred, or appropriated to the state bond fund and all income from the investment of that money is appropriated to the commissioner for the payment of principal and interest on state bonds.

Subd. 10. Appropriation from general fund. There is annually appropriated to the state bond fund from the general fund the amount that, added to the amount in the state bond fund on November 1 each year for state bonds issued by January 1, 1985, and the amount that added to the amount in the state bond fund on December 1 each year for state bonds issued after January 1, 1985, is needed to pay the principal of and interest on all state bonds due and to become due through July 1 in the second ensuing year.

The money appropriated must be available in the state bond fund each year before the tax otherwise required by the constitution, article XI, section 7, is levied.

Subd. 11. Constitutional tax levy. Under the constitution, article XI, section 7, the state auditor must levy each year on all taxable property within the state a tax sufficient, with the amount then on hand in the state bond fund, to pay all principal and interest on state bonds due and to become due to and including July 1 in the second ensuing year. The tax is not subject to limitation of rate or amount. However, the amount of money appropriated from other sources as provided in subdivision 10, and actually received and on hand prior to the levy in any year, reduces the amount of the tax otherwise required to be levied. The proceeds of the tax must be credited to the state bond fund.

Subd. 12. Supplemental appropriation from general fund. If the proceeds of the tax levied under subdivision 11 are ever insufficient to make the principal and interest payments on state bonds when due, the balance must be paid out of the general fund. The amount needed to pay the balance is appropriated from the general fund to the commissioner.

Subd. 13. Application. This section applies to all state bonds issued after January 1, 1985, notwithstanding other laws relating to specific bonding programs.

History: 1984 c 597 s 34; 1Sp1985 c 13 s 111,112; 1Sp1985 c 14 art 4 s 2; 1986 c 444; 1989 c 271 s 5; 1990 c 610 art 1 s 35,36

16A.65 Subdivision 1. [Repealed, 1984 c 597 s 55]

Subd. 2. [Repealed, 1984 c 597 s 55]

Subd. 3. [Repealed, 1984 c 597 s 55; 1984 c 628 art 2 s 4]

Subd. 4. [Repealed, 1984 c 597 s 55]

16A.651 [Repealed, 1990 c 610 art 1 s 59]

16A.66 REFUNDING BONDS.

Subdivision 1. Authority; reduction of tax and appropriation for refunded bonds. The commissioner may, with the approval by resolution of the executive council, issue state bonds in accordance with section 16A.641 to refund any outstanding state bonds and interest on them. The proceeds of refunding bonds shall be credited to the account established within the state bond fund for the bonds to be refunded, and shall be credited only against the appropriations in section 16A.641, subdivisions 9 and 10 and the tax required by the Constitution with respect to the refunded bonds and interest.

Subd. 2. Special provisions for sale and issuance. Refunding bonds may be sold publicly, or directly to the state board of investment without bids, or may be exchanged for bonds refunded by agreement with their holders. The refunding bonds must be prepared, executed, delivered, and secured in the same way as the refunded bonds. The proceeds of refunding bonds may be deposited, invested, and applied to accomplish the refunding as provided in section 475.67, subdivisions 5 to 10. The interest rate on refunding bonds may exceed that on the refunded bonds if the purpose of refunding is to extend the maturities and to reduce the amount needed annually to pay and to secure the debt.

Subd. 3. Appropriation. The money needed to carry out this section is appropriated annually.

History: 1969 c 1047 s 2; 1973 c 35 s 1; 1973 c 492 s 14; 1976 c 2 s 172; 1Sp1981 c 1 art 10 s 1; 1983 c 301 s 96-98; 1984 c 597 s 36; 1984 c 628 art 2 s 1; art 6 s 1

16A.661 GENERAL OBLIGATION SPECIAL TAX BONDS.

Subdivision 1. Authority. When authorized by law enacted in accordance with the constitution, article XI, sections 5 and 7, the commissioner may by order sell and issue general obligation special tax bonds of the state evidencing public debt incurred for any purpose stated in the law. The bonds are payable primarily from the proceeds of special

taxes appropriated to special tax bond debt service accounts established in subdivision 3 and other money on hand in that fund from time to time; however, the bonds are general obligations of the state, and the full faith and credit of the state are pledged for their payment.

Subd. 2. Manner of issuance; maturities. The bonds must be issued and sold in accordance with section 16A.641, except that the maturities of the bonds and the interest rates applicable to the bonds must be fixed so that the principal and interest coming due in the 1987-1989 biennium on all bonds outstanding at any time does not exceed \$46,750,000. Sections 16A.672 and 16A.675 apply to the bonds.

Subd. 3. Establishment of debt service fund; appropriation of debt service fund money. (a) There is established within the state bond fund a separate and special account designated as a general obligation special tax bond debt service account. There must be credited to this debt service account in each fiscal year from the tobacco tax revenue fund established in section 297.13 an amount sufficient to increase the balance on hand in the debt service account on each December 1 to an amount equal to the full amount of principal and interest to come due on all outstanding bonds whose debt service is payable primarily from proceeds of the tax to and including the second following July 1. The money on hand in the debt service account must be used solely for the payment of the principal of, and interest on, the bonds, and is appropriated for this purpose. This appropriation does not cancel as long as any of the bonds remain outstanding.

(b) There is established within the state bond fund a separate and special account designated as a general obligation special tax bond debt service account. There must be credited to this debt service account in each fiscal year from the sports and health club sales tax revenue fund established in section 297A.44 an amount sufficient to increase the balance on hand in the debt service account on each December 1 to an amount equal to the full amount of principal and interest to come due on all outstanding bonds whose debt service is payable primarily from proceeds of the tax to and including the second following July 1. The money on hand in the debt service account must be used solely for the payment of the principal of, and interest on, the bonds, and is appropriated for this purpose. This appropriation does not cancel as long as any of the bonds remain outstanding.

Subd. 4. Appropriation from general fund. There is annually appropriated to the general obligation special tax bond debt service accounts from the general fund the amount that, added to the amount in the general obligation special tax bond debt service accounts on December 1 each year, after giving effect to subdivision 3, is equal to the full amount of principal and interest to come due on all bonds to and including July 1 in the second ensuing year.

Subd. 5. Constitutional tax levy. Under the constitution, article XI, section 7, the state auditor must levy each year on all taxable property within the state a tax sufficient, with the amount then on hand in the general obligation special tax bond debt service accounts, to pay all principal and interest on the bonds due and to become due to and including July 1 in the second ensuing year. The tax is not subject to limit as to rate or amount. However, the amount of money appropriated from other sources as provided in subdivisions 3 and 4, and actually received and on hand before the levy in any year, reduces the amount of the tax otherwise required to be levied. The proceeds of the tax must be credited to the appropriate general obligation special tax bond debt service account.

Subd. 6. [Repealed, 1990 c 610 art 1 s 59]

Subd. 7. Application and appropriation of proceeds. The proceeds of the bonds must be deposited and spent as provided in this subdivision and are appropriated for those purposes. Any accrued interest and any premium received on the sale of the bonds, and any amount of bond proceeds determined by the commissioner to be needed to pay interest payable on the bonds up to 18 months following their issuance, must be credited to the appropriate general obligation special tax bond debt service account. Except as otherwise required by law, the balance of the bond proceeds shall

be credited to the bond proceeds fund and spent for the purposes specified in the law authorizing the issuance of the bonds. So much of the proceeds as is necessary must be used to pay costs incurred in issuing and selling the bonds.

History: 1987 c 400 s 31; 1988 c 633 s 1; 1989 c 271 s 6

16A.662 INFRASTRUCTURE DEVELOPMENT BONDS.

Subdivision 1. Infrastructure development fund. The infrastructure development fund is created as an account in the state treasury. The commissioner of finance shall credit to the fund income from the sources provided by law. The commissioner of finance shall from time to time certify to the state board of investment the assets of the fund not currently needed. The amount certified must be invested by the state board of investment subject to section 11A.24. Investment income and investment losses attributable to investment of fund assets must be credited to or borne by the fund.

Subd. 2. Bonds authorized. When authorized by law enacted in accordance with the constitution, article XI, sections 5 and 7, the commissioner may by order sell and issue infrastructure development bonds of the state evidencing public debt incurred for any purpose stated in the law. The bonds are general obligations of the state, and the full faith and credit of the state are pledged for their payment.

Subd. 3. Manner of issuance; maturities. The bonds must be issued and sold in accordance with section 16A.641. Sections 16A.672 and 16A.675 apply to the bonds.

Subd. 4. Establishment of debt service account; appropriation of debt service account money. There is established within the state bond fund a separate and special account designated as the infrastructure development bond debt service account. There must be transferred to this debt service account in each fiscal year from money in the infrastructure development fund, other than bond proceeds and interest earned on bond proceeds, an amount sufficient to increase the balance on hand in the debt service account on each December 1 to an amount equal to the full amount of principal and interest to come due on all outstanding infrastructure development bonds to and including the second following July 1. The amount necessary to make the transfer is appropriated from the infrastructure development fund. The money on hand in the debt service account must be used solely for the payment of the principal of, and interest on, the bonds, and is appropriated for this purpose. This appropriation does not cancel as long as any of the bonds remain outstanding.

Subd. 5. Assessment to higher education systems. (a) In order to reduce the amount otherwise required to be transferred under subdivision 4, the commissioner of finance shall assess each higher education system for one-third the amount that would otherwise need to be transferred with respect to infrastructure development bonds sold to finance capital improvement projects at institutions under the control of the system; provided that, to the extent that the amount to be transferred is for payment of principal and interest on bonds sold to finance life safety improvements, the commissioner must not assess the higher education systems for the transfer.

(b) After each sale of infrastructure development bonds, the commissioner of finance shall notify the state board for vocational technical education, the state board for community colleges, the state university board, and the regents of the University of Minnesota of the amounts for which each system is responsible for each year for the life of the bonds. The amounts payable each year are reduced by one-third of the net income from investment of infrastructure development bond proceeds that must be allocated among the systems in proportion to the amount of principal and interest otherwise required to be paid by each. Each higher education system shall pay its annual share of debt service payments to the commissioner of finance by December 1 each year. If a higher education system fails to make a payment when due, the commissioner of finance shall reduce allotments for appropriations from the general fund otherwise payable to the system to cover the amount of the missed debt service payment. The commissioner of finance shall credit the payments received from the higher education systems to the infrastructure development bond debt service account in the state bond fund each December 1 before the transfer is made under subdivision 4.

Subd. 6. **Appropriation from general fund.** There is annually appropriated from the general fund for transfer to the infrastructure development bond debt service account the amount that, added to the amount in the infrastructure development bond debt service account on December 1 each year, after giving effect to subdivisions 4 and 5, is equal to the full amount of principal and interest to come due on all bonds to and including July 1 in the second ensuing year.

Subd. 7. **Constitutional tax levy.** Under the constitution, article XI, section 7, the state auditor must levy each year on all taxable property within the state a tax sufficient, with the amount then on hand in the infrastructure development bond debt service account, to pay all principal and interest on the bonds due and to become due to and including July 1 in the second ensuing year. The tax is not subject to limit as to rate or amount. However, the amount of money appropriated from other sources as provided in subdivisions 4, 5, and 6, and actually received and on hand before the levy in any year, reduces the amount of the tax otherwise required to be levied. The proceeds of the tax must be credited to the infrastructure development bond debt service account.

Subd. 8. **Application and appropriation of proceeds.** The proceeds of the bonds must be deposited and spent as provided in this subdivision and are appropriated for those purposes. Any accrued interest and any premium received on the sale of the bonds must be credited to the infrastructure development bond debt service account. Except as otherwise required by law, the balance of the bond proceeds shall be credited to the infrastructure development fund and spent for the purposes specified in the law authorizing the issuance of the bonds. So much of the proceeds as is necessary must be used to pay costs incurred in issuing and selling the bonds.

History: 1990 c 610 art 1 s 37

16A.67 [Repealed, 2Sp1981 c 1 s 7]

16A.671 CERTIFICATES OF INDEBTEDNESS.

Subdivision 1. **Authority; advisory recommendation.** To ensure that cash is available when needed to pay warrants drawn on the general fund under appropriations and allotments, the governor may authorize the commissioner (1) to issue certificates of indebtedness in anticipation of the collection of taxes levied for and other revenues appropriated to the general fund for expenditure during each biennium; and (2) to issue additional certificates to refund outstanding certificates and interest on them, under the constitution, article XI, section 6.

Subd. 2. **Advisory recommendation.** Before certificates are initially sold by any of the methods authorized in subdivision 6, the governor shall seek the advisory recommendation of the legislative advisory commission, or if there is no commission, the executive council, on (1) the necessity of issuing them, (2) the terms and conditions of the sale, and (3) the maximum amount to be issued and outstanding under the authorization. If the commission or council does not make a recommendation promptly, the recommendation is negative. An additional recommendation is not required for refunding outstanding certificates or for each issuance of certificates in accordance with an approved line of credit, underwriting, or placement agreement.

Subd. 3. **Definitions.** As used in this section, the terms defined in this subdivision have the meanings given them:

(a) "General fund" means all cash and investments from time to time received and held in the treasury, except proceeds of state bonds and amounts received and held in special or dedicated funds created by the constitution, or by or pursuant to federal laws or regulations, or by bond or trust instruments, pension contracts, or other agreements of the state or its agencies with private persons, entered into under state law.

(b) "Maximum current cash flow requirement" means the commissioner's written estimate of the largest of the amounts by which, on a particular designated date in each month of the term for which certificates are to be issued, the sum of (1) the warrants

then outstanding against the general fund plus (2) those that must be drawn on the fund before the same date in the following month, in payment of claims due for expenditure under all appropriations and allotments, will exceed the amount of cash or cash equivalent assets held in the general fund on the first of these dates, excluding the proceeds of the certificates to be issued.

Subd. 4. Limitations of amount. The principal amount of certificates to be issued at any time must not exceed the lesser of the following:

(1) An amount which, with interest thereon to maturity, added to the then outstanding amount of certificates not simultaneously paid and retired, will equal the then unexpended balance of all money which will be credited to the general fund during the current biennium under existing laws, as estimated by the commissioner; or

(2) The maximum current cash flow requirement.

Subd. 5. Terms. The commissioner may establish by order with the approval of the attorney general, but not subject to chapter 14, the terms of each series of certificates of indebtedness including:

(1) the manner of sale under subdivision 6;

(2) the price, principal amount, and date of issue;

(3) the interest rate or rates and payment dates, or the basis of computation of a variable rate;

(4) the maturity date or dates, within the current biennium except as provided in subdivision 10;

(5) the terms, if any, of redemption before maturity;

(6) the form and method of execution, delivery, payment, registration, conversion, and exchange, under section 16A.672.

Subd. 6. Sale. Certificates of indebtedness may be sold in any of the ways listed in paragraphs (a) to (e).

(a) The commissioner may advertise for competitive bids.

(b) The commissioner may negotiate contracts with suitable banks in or out of state to establish lines of credit, for an agreed compensation. The contracts must provide that the commissioner may issue certificates of indebtedness up to a maximum outstanding amount within an agreed period, bearing interest at a fixed or variable rate. The certificates must be subject to redemption at par plus accrued interest at any time at the commissioner's option.

(c) The commissioner may negotiate contracts with firms of underwriters that will purchase or act as agents in the placement of certificates of indebtedness issued within an agreed period, up to a maximum amount outstanding. The certificates may be sold to the underwriters or investors (1) at an agreed discount with the interest included in the face amount payable at maturity, or (2) bearing interest at a stated interest rate on the face amount, payable on one or more dates. For the further security of these certificates the commissioner may negotiate agreements for lines of credit under paragraph (b) to pay the certificates with interest to maturity, if necessary, by the issuance of new certificates under the lines of credit.

(d) The commissioner may make contracts for agreed fees with suitable banks in or out of state to authenticate, issue, pay principal and interest on, cancel, and otherwise deal as fiscal agents of the state with certificates of indebtedness issued under paragraph (a), (b), or (c).

(e) The commissioner may sell certificates of indebtedness to the state board of investment without advertising for bids. The board must determine that the terms are not less favorable than those available at the time for the purchase of direct obligations of the federal government or its agencies, of comparable maturities. The board may purchase the certificates with any money under its control except money in a pension fund.

Subd. 6a. Fiscal agent bank. The commissioner may enter into an agreement with a suitable bank or banks located within or outside the state to authenticate, issue, pay

principal and interest on, cancel or otherwise deal with certificates of indebtedness issued pursuant to this section, for an agreed compensation.

Subd. 7. Appropriation of proceeds. The proceeds of all certificates of indebtedness must be deposited in the general fund, and shall be available for spending under any appropriation from that fund for any purpose, subject to subdivision 9.

Subd. 8. Appropriation and accounting for payment of certificates and expenses from the general fund. The amounts needed for the purposes in this subdivision are appropriated and must be paid from the general fund. These appropriations are irrevocable and shall not be canceled. They must be included in the computation of current cash flow requirements and of amounts available for allotment. The purposes of the appropriations are:

(1) payment of the principal of and interest and premium, if any, on all certificates when due;

(2) actual and necessary travel and subsistence expenses of state officers and employees and other expenses incidental to the sale or placement, printing, execution, and delivery of certificates; and

(3) costs of lines of credit.

Subd. 9. Priority of certificate payments; covenants. (a) The proceeds of certificates of indebtedness issued in whole or in part to refund outstanding certificates and interest as authorized in the constitution are available only for that purpose until the refunded certificates and interest are paid.

(b) The commissioner may covenant by order, on behalf of the state, for the security of the holders of any certificates, to segregate cash and cash equivalent assets in a special account within the general fund in the amounts and at the times in advance of the due dates that the commissioner determines to be advisable for marketing the certificates, and to act under section 16A.15, subdivision 1, to perform the covenant. The amount in the account is available only to pay the principal of and interest and premium, if any, on the certificates referred to in the order.

Subd. 10. Covenant to refund. If cash and cash equivalent assets in the general fund in excess of the amount of outstanding warrants is not sufficient to pay any certificates of indebtedness or interest when due, the commissioner may issue refunding certificates maturing not later than December 1 in the next calendar year to pay the deficiency. With the approval of the governor, the commissioner may covenant on behalf of the state, in the order issuing any certificates, to offer refunding certificates for sale if a deficiency is expected.

Subd. 11. Constitutional tax levy. If cash and cash equivalent assets in the general fund in excess of the amount of outstanding warrants, on December 1 immediately following the close of a biennium, is not sufficient to pay:

(1) all refunding certificates of indebtedness;

(2) all other certificates outstanding at the end of the biennium and not refunded; and

(3) all interest accrued on the certificates referred to in clauses (1) and (2);

the state auditor shall levy upon all taxable property in the state the tax required by the constitution, article XI, section 6, collectible in the next calendar year and sufficient to pay all amounts described in clauses (1), (2), and (3) on or before December 1 in the collection year with interest to the date or dates of payment.

History: 2Sp1981 c 1 s 5; 3Sp1981 c 2 art 7 s 2-5; 1982 c 424 s 130; 1982 c 639 s 28; 1Sp1982 c 3 s 2,3; 1984 c 597 s 37; 1984 c 628 art 2 s 1; art 6 s 1

16A.672 BONDS AND CERTIFICATES OF INDEBTEDNESS.

Subdivision 1. Authority. The commissioner may issue, execute, deliver, register, and pay bonds and certificates of indebtedness in the form and manner provided in this section, when authorized under section 16A.641 or 16A.671.

Subd. 2. Application of commercial code. All bonds and certificates are securities

under sections 336.8-101 to 336.8-408. The commissioner may do for the state whatever may or must be done under those sections to comply with the orders authorizing them. The bonds or certificates may be issued:

- (1) in one or more denominations;
- (2) in bearer form, with interest coupons attached; and
- (3) with provision for registration as to principal only; or
- (4) in fully registered form; and

(5) with provision for registration of conversion and exchange of forms and denominations, transfer of ownership, and replacement of lost or damaged bonds.

Subd. 3. Preparation and execution. (a) Bonds and certificates of indebtedness may be printed or otherwise reproduced in the style and form the commissioner prescribes. They may state in a general way the purpose for which they are issued and the security provided for their payment or may incorporate the authorizing order by reference.

(b) They must be executed by the commissioner under the commissioner's official seal. The signature may be a reproduced facsimile, but no bond or certificate is valid for any purpose unless it is manually signed on its face by the commissioner or by a duly authorized representative of a bank or trust company named by the commissioner as an agent of the state to authenticate it.

Subd. 4. Delivery. The commissioner may name a bank or trust company in or out of the state to act as the state's agent to deliver bonds or certificates to the initial purchaser upon payment of the purchase price.

Subd. 5. Registrar. The commissioner, in order to issue any bonds or certificates, may name a registrar to act for the state under sections 336.8-101 to 336.8-408, and to authenticate and deliver obligations upon initial issuance and registration of transfer, exchange, or conversion. The registrar must be an incorporated bank or trust company, in or out of the state, authorized by the laws of the United States or the state in which it is located to perform these duties.

Subd. 6. Payment. The order authorizing bonds or certificates to be issued may contain provisions that the commissioner considers necessary to ensure full and prompt payment of principal and interest when due. The order may provide for payment at the office of a bank or trust company in or out of the state. The order may provide that interest due on any interest payment date is payable to the person or entity shown as the owner of the bond or certificate in the register on a specified date preceding the interest payment date, by check, draft, or other transfer to the order of that owner.

Subd. 7. Agreements. The commissioner may make agreements to carry out orders issued under this section. The agreements may provide for the paying for services performed and expenses incurred on behalf of the state, from:

- (1) proceeds of the bonds or certificates;
- (2) other money appropriated to the commissioner;
- (3) charges to holders of the bonds or certificates; or
- (4) a combination of sources in clauses (1), (2), and (3).

Subd. 8. Appropriations. The proceeds of the bonds or certificates under subdivision 7 are appropriated as necessary to pay expenses incurred under that subdivision.

Subd. 9. Appropriation. The money needed to pay when due the compensation and expenses of registrars, delivery agents, and paying agents under subdivision 7 is appropriated annually to the commissioner from the general fund.

Subd. 9a. Taxability; certification. Certificates may be issued with or without regard to whether the interest to be paid on them is includable in gross income for federal tax purposes. If it is intended that the interest on the certificates be exempt from federal income taxes, the commissioner shall certify for the state on the date of issue the facts, estimates, and circumstances that lead the commissioner reasonably to expect that the proceeds of the certificates will not be used in a way that would cause the interest on the certificates to be subject to federal income taxes. The commissioner may cov-

enant with the holders of the certificates that the state will comply with the provisions of the United States Internal Revenue Code then or later enacted that apply or may apply to the certificates and that establish conditions under which the interest to be paid on the certificates will not be subject to federal income taxes. The commissioner and all other state officers shall act or refrain from acting as necessary to comply with the covenants. A sum sufficient to meet the cost of compliance is annually appropriated to the commissioner from the general fund.

Subd. 10. Approval by attorney general. An agreement under subdivision 7 is not effective until approved as to form and execution by the attorney general or a designee.

Subd. 11. Registration not public information. Information in any register of ownership of bonds or certificates is nonpublic data under section 13.02, subdivision 9, or private data on individuals under section 13.02, subdivision 12. The information is open only to the subject of it, except as disclosure:

(1) is necessary for the registrar, the commissioner, the treasurer, or the legislative auditor to perform a duty; or

(2) is requested by an authorized representative of the state commissioner of revenue, the state attorney general, or the United States commissioner of internal revenue to determine the application of a tax; or

(3) is required under section 13.03, subdivision 4.

History: 1983 c 301 s 99; 1984 c 597 s 38; 1984 c 628 art 2 s 1; art 6 s 1; 1Sp1985 c 13 s 113-115; 1986 c 444; 1990 c 610 art 1 s 39

16A.675 PERSONS EXECUTING OBLIGATIONS NOT LIABLE.

No officer or other person executing state bonds or certificates is liable personally on them or accountable by reason of issuing them.

History: 1977 c 410 s 7; 1984 c 597 s 39; 1984 c 628 art 2 s 1; art 6 s 1

16A.68 FEDERAL FUNDS TO THE GAME AND FISH ACCOUNT.

Subdivision 1. Pittman-Robertson Act funds. Federal aid reimbursements for the Pittman-Robertson account shall be deposited to the credit of the game and fish receipts account in the treasury.

Subd. 2. Dingell-Johnson Act funds. Federal aid reimbursements for the Dingell-Johnson account shall be deposited to the credit of the game and fish receipts account in the treasury.

History: Ex1967 c 48 s 74; 1984 c 628 art 2 s 1

16A.69 APPROPRIATIONS INTO SINGLE PROJECT ACCOUNT.

Subdivision 1. Appropriations into single project account. The commissioner shall place the money from two or more appropriations for the same or related projects in one account if all the appropriations do not lapse until their purposes are accomplished or abandoned. The agency to whom the appropriation was made shall first certify which accounts are involved to the commissioner.

Subd. 2. Transfer between accounts. Upon the awarding of final contracts for the completion of a project for construction or other permanent improvement, or upon the abandonment of the project, the agency to whom the appropriation was made may transfer the unencumbered balance in the project account to another project enumerated in the same section of that appropriation act. The transfer must be made only to cover bids for the other project that were higher than was estimated when the appropriation for the other project was made and not to cover an expansion of the other project. The money transferred under this section is appropriated for the purposes for which transferred. For transfers by the state board of technical colleges, the total cost of both projects and the required local share for both projects are adjusted accordingly. The agency proposing a transfer shall report to the chair of the senate finance committee and the chair of the house appropriations committee before the transfer is made under this subdivision.

History: 1969 c 1155 s 11; 1973 c 492 s 14; 1984 c 628 art 2 s 1; 1989 c 300 art 1 s 24; 1990 c 375 s 3; 1990 c 610 art 1 s 40

16A.70 TACONITE PROPERTY TAX RELIEF ACCOUNT.

Subdivision 1. **Deposit.** The commissioner shall deposit to the credit of the taconite property tax relief account in the apportionment fund of the treasury funds made available to be deposited in that account.

Subd. 2. **Appropriation.** The money to be paid by law from the taconite property tax relief account is appropriated annually.

History: 1969 c 1156 s 3; 1973 c 492 s 14; 1984 c 628 art 2 s 1

16A.71 TACONITE MUNICIPAL AID ACCOUNT.

Subdivision 1. **Deposit.** The commissioner shall deposit all money available to the credit of the taconite municipal aid account in the apportionment fund of the treasury under section 298.28, subdivision 3, in that account.

Subd. 2. **Appropriation.** The money to be paid from the taconite municipal aid account under sections 298.282 and 298.283 is appropriated annually.

History: Ex1971 c 31 art 30 s 5; 1979 c 50 s 4; 1984 c 628 art 2 s 1

16A.72 INCOME CREDITED TO GENERAL FUND; EXCEPTIONS.

All income, including fees or receipts of any nature, shall be credited to the general fund, except:

- (1) federal aid;
- (2) contributions, or reimbursements received for any account of any division or department for which an appropriation is made by law;
- (3) income to the University of Minnesota;
- (4) income to revolving funds now established in institutions under the control of the commissioners of corrections or human services;
- (5) investment earnings resulting from the master lease program, except that the amount credited to another fund or account may not exceed the amount of the additional expense incurred by that fund or account through participation in the master lease program;
- (6) receipts from the operation of patients' and inmates' stores and vending machines, which shall be deposited in the social welfare fund in each institution for the benefit of the patients and inmates;
- (7) money received in payment for services of inmate labor employed in the industries carried on in the state correctional facilities which receipts shall be credited to the current expense fund of those facilities;
- (8) as provided in sections 16B.57 and 85.22; or
- (9) as otherwise provided by law.

History: Ex1971 c 3 s 54; 1976 c 163 s 3; 1979 c 102 s 13; 1984 c 544 s 89; 1984 c 628 art 2 s 1; 1984 c 654 art 5 s 58; 1Sp1986 c 3 art 4 s 1

16A.721 STATE SEMINAR FEES, APPROPRIATION.

Subdivision 1. **Account, rules.** The commissioner may make rules for charging fees for seminars and workshops conducted by agencies. The commissioner may keep an account for deposit of the seminar and workshop fee receipts. The commissioner may not allow the unobligated balance of this account to exceed \$10,000.

Subd. 2. **Appropriation.** The receipts collected under subdivision 1 are appropriated for payment of expenses relating to the workshops and seminars.

History: 1978 c 793 s 52; 1980 c 614 s 59; 1984 c 628 art 2 s 1

16A.722 LOSS OR DAMAGE TO STATE PROPERTY.

Notwithstanding any other law to the contrary, an agency that receives a reimbursement for the loss of or damage to state property may deposit the reimbursement in the current year's account. The reimbursement is reappropriated for the purpose of replacing or repairing the state property.

History: 1984 c 544 s 5

16A.73 [Repealed, 1984 c 654 art 2 s 155]

16A.75 [Repealed, 1981 c 356 s 377]

16A.751 [Repealed, 1981 c 356 s 377]

16A.752 [Repealed, 1981 c 356 s 377]

16A.753 [Repealed, 1981 c 356 s 377]

16A.754 [Repealed, 1981 c 356 s 377]

16A.79 MATCHING FEDERAL APPROPRIATIONS.

Specific appropriations that are made to match federal appropriations shall be considered change requests in the following biennial budget submission if, during the biennium, the federal funding has been reduced or eliminated.

History: 1990 c 594 art 1 s 45

16A.80 OFFICE OF DEBT AND LOAN MANAGEMENT.

Subdivision 1. Pay, experience. The office of debt and loan management is in the department. Administrative employees of the office must have five years' experience in commercial lending or a related field. These employees must be paid less than the deputy commissioner but comparably to private sector employees with similar backgrounds.

Subd. 2. Duties. An agency authorized to make, participate in, or guarantee loans to private sector businesses or to invest in a private sector business must submit the loan or investment proposal to the office before making a commitment on it. A loan, loan participation, loan guarantee, or investment covered by this section may not be made without the approval of the office.

Subd. 2a. Exempt agencies. This section does not apply to:

- (1) the housing finance agency;
- (2) the state board of investment;
- (3) the iron range resources and rehabilitation board;
- (4) the higher education coordinating board; and
- (5) the higher education facilities authority.

Subd. 3. Criteria. The office in reviewing proposals shall judge:

- (1) the likelihood of the state losing money on the project;
- (2) the size of the potential loss; and
- (3) the intent of the law authorizing the loans, loan participation, loan guarantees, or investments.

Subd. 4. Delegation. The head of the office may delegate approval under this section to an agency authorized to make loans, loan participation agreements, loan guarantees, or investments involving private businesses if the head decides that the agency can make the judgments required by subdivision 3.

History: 1983 c 289 s 5; 1984 c 628 art 2 s 1; 1987 c 386 art 5 s 2

16A.85 MASTER LEASE.

Subdivision 1. Authorization. The commissioner of administration may determine, in conjunction with the commissioner of finance, the personal property needs of the various state departments, agencies, boards, and commissions of the kinds identified in this subdivision that may be economically funded through a master lease program and request the commissioner of finance to execute a master lease. The master lease may be used only to finance the following kinds of purchases:

(a) The master lease may be used to finance purchases by the commissioner of administration with money from an internal services fund.

(b) The master lease may be used to refinance a purchase of equipment already purchased under a lease-purchase agreement.

(c) The master lease may be used to finance purchases of large equipment with a capital value of more than \$100,000 and a useful life of more than ten years.

(d) The legislature may specifically authorize a particular purchase to be financed using the master lease. The legislature anticipates that this authorization will be given only to finance the purchase of major pieces of equipment with a capital value of more than \$10,000.

The commissioner of finance may authorize the sale and issuance of certificates of participation relative to a master lease in an amount sufficient to fund these personal property needs. The term of the certificates must be less than the expected useful life of the equipment whose purchase is financed by the certificates. The commissioner of administration may use the proceeds from the master lease or the sale of the certificates of participation to acquire the personal property through the appropriate procurement procedure in chapter 16B. Money appropriated for the lease or acquisition of this personal property is appropriated to the commissioner of finance to make master lease payments.

Subd. 2. Covenants. The commissioner of finance may covenant in a master lease that the state will abide by the terms and provisions that are customary in net lease or lease-purchase transactions including, but not limited to, covenants providing that the state:

- (1) will maintain insurance as required under the terms of the lease agreement;
- (2) is responsible to the lessor for any public liability or property damage claims or costs related to the selection, use, or maintenance of the leased equipment, to the extent of insurance or self-insurance maintained by the lessee, and for costs and expenses incurred by the lessor as a result of any default by the lessee;
- (3) authorizes the lessor to exercise the rights of a secured party with respect to the equipment subject to the lease in the event of default by the lessee and, in addition, for the present recovery of lease rentals due during the current term of the lease as liquidated damages.

Subd. 3. Master leases not debt. The commissioner of finance may not enter into a master lease unless the commissioner of finance has conducted a demand survey of the amount of projected rentals and determines that money has been appropriated and allotted for the payment of the maximum amount of rentals that are projected to be payable from state money and that are projected to be due or to become due during the appropriation period in which the lease contract is entered into. A master lease does not constitute or create a general or moral obligation or indebtedness of the state in excess of the money from time to time appropriated or otherwise available for the payment of rent coming due under the lease, and the state has no continuing obligation to appropriate money for the payment of rent or other obligations under the lease. Rent due under a master lease during a current lease term for which money has been appropriated is a current expense of the state.

Subd. 4. Tax exemption. Property subject to a master lease is not subject to personal property taxes. Property purchased by a lessor for lease to the state under a valid master lease and rent due under the lease are not subject to sales tax.

Subd. 5. Investment income. The net income from investment of the proceeds of the certificates of participation, as estimated by the commissioner of finance, must be credited to the fund whose assets will be used to pay off the certificates of participation:

Subd. 6. Budget offset. The commissioner of finance shall reduce the operating budgets of state agencies that use the master lease program. The amount of the reduction is the difference between the budgeted purchase price of the equipment and the actual master lease payments.

History: *1Sp1985 c 13 s 116; 1987 c 404 s 78; 1989 c 271 s 7,8; 1990 c 506 art 2 s 8*